

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

**BRIEF FOR APPELLANT
AND JOINT APPENDIX**

IN THE

United States Court of Appeals

DISTRICT OF COLUMBIA

609

*United States Court of Appeals
for the District of Columbia*

No. 8949

FILED MAR 22 1945

ONEITA KNITTING MILLS, *Appellant,*

Joseph W. Stewart

CLERK

v.

CONWAY P. COE, Commissioner of Patents, *Appellee.*

**Appeal from the District Court of the United States for the
District of Columbia.**

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IN THE
United States Court of Appeals

DISTRICT OF COLUMBIA.

No. 8949.

ONEITA KNITTING MILLS, *Appellant*,

v.

CONWAY P. COE, Commissioner of Patents of the United
States of America, *Appellee*.

Appeal from the District Court of the United States for the
District of Columbia.

BRIEF FOR APPELLANT

JURISDICTIONAL STATEMENT

This is an appeal from the adverse decision of the District Court of the United States for the District of Columbia in an action under Section 4915 R. S. (U. S. C., title 35, Section 63) in which plaintiff's appellant sought to have the Court adjudge that it was lawfully entitled to receive a patent containing claims 3 to 6 inclusive,

of the patent application of the plaintiff's assignee, John T. Shea, Serial No. 361,445, which was filed in the Patent Office on October 16, 1940.

STATEMENT OF THE CASE

The application relates to a sweat shirt which is equipped with a freedom sleeve that will allow for maximum arm action without tearing the fabric or arm seams of the garment and with a shoulder insert made integral with the sleeve portion, whereby to avoid the usual shoulder seam which is objectional both from a comfort standpoint and from a structural standpoint. The neck portion is designed to overcome the tendency to stretch out of shape by providing lastex therein. The lastex is also knitted into the lower edge of the body to prevent the body portion from sliding upward when worn.

A purpose of the invention is to provide a sweat shirt, worn particularly by athletes, that will hold its shape.

The five following patent claims are involved in this appeal:

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

4. In a sweat shirt, a neck portion made partially of lastex, whereby to hold said neck portion in normal position, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow free-

dom of movement relative to said body part, shoulder pieces formed on said sleeves seamed to said body part and to said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging, and said body portion having a lower band made partially of lastex, whereby to aid in holding the lower part of the garment tightly to the wearer.

5. In a sweat shirt, a neck portion made of a stretchable material, a body portion made of tubular knitted fabric, tongues integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part and, shoulder pieces formed on said sleeves seamed to said body part and said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging.

6. In a sweat shirt, a crew collar made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric made by cutting the lateral edges of said body portions that taper towards the bottom of said cuts, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body portion, shoulder pieces formed by extending said sleeves, and said shoulder pieces seamed to said body portion and to said neck portion to form a seamless shoulder and to allow for transverse stretch across the shoulder portion for the comfort of the wearer and to prevent longitudinal stretch, whereby to eliminate sagging of the garment at the arm holes.

REFERENCES

The references mentioned in the answer are, to wit:

Huels,	1,288,417,	Dec. 17, 1918,
Redmond,	2,035,377,	Mar. 24, 1936,
Fagan,	1,669,868,	May 15, 1928.

APPLICATION

The application relates to a sweat shirt used particularly by athletes. It is designed primarily to prevent the sagging of the shirt and to make it hold its original form. Heretofore, in sweat shirts, after they have been worn a short time, they sag, become stretched out of place and thereby present a garment that is out of shape, does not hold its shape and becomes unsightly and a clumsy garment to wear.

THE APPLICANT'S PROBLEM

Applicant has designed a sweat shirt, used particularly by athletes, that will not stretch out of shape after being used a short time and sag at the neck and body portions and, thereby, fit loosely on the body of the wearer.

Another objectionable feature heretofore found in garments of this type was the seam at the shoulder of the garment which has been eliminated in applicant's structure.

Also the tendency of the sleeves to rip at the arm pit has been eliminated by cutting the body portion in such manner as to provide tongues that form the under part of the sleeves at the arm pits.

APPLICANT'S GARMENT

A cut of applicant's garment is shown on page 35 of Appendix.

The application relates to a sweat shirt used particularly by athletes. It is designed primarily to prevent the sagging of the shirt and to make it hold its original form. Heretofore, in sweat shirts, after they have been worn a short

time, they sag at the neck and body portions of the garment, do not fit snugly on the body of the wearer. Hence the garment becomes unsightly and clumsy for the wearer.

In order to overcome these aforementioned defects the present sweat shirt is equipped with a freedom sleeve that will allow for maximum arm action without tearing the fabric or arm seams of the garment.

Furthermore, the sweat shirt is provided with a shoulder insert made integral with the sleeve portion, whereby to avoid the usual shoulder seam which is objectional both from a comfort standpoint and from a structural standpoint.

Heretofore, the weak part in the sweat shirt was at the seam adjacent the shoulder where the sleeve was united to the body portion of the garment. This weak feature has been eliminated in the present structure by extending the top portion of the sleeve to form a shoulder piece or strap. The extreme end of said shoulder piece or strap is joined directly to the neck of the garment. The knitted wales of the shoulder piece will allow for a transverse yield across the shoulder but not a longitudinal yield lengthwise of the shoulder.

The weakness of the seam at the arm hole allowed the shoulder portion to sag, whereby the garment lost its shape and became unsightly, whereas in the present structure the seam with its accompanying weakness is entirely eliminated and an unbroken piece of fabric forming an extension of the sleeve is substituted, whereby the sweat shirt will retain its shape during the life of the garment.

Furthermore, the manufacturers of sweat shirts have experienced some difficulty in mounting the sleeves to the body of the garment in such a manner as to prevent the same from ripping at the arm pit where occurs the greatest strain for the reason that the arms of the athlete when in exercise are swinging at all angles to his body, thereby exerting a strain on the arm pit where the sleeve is held to the garment proper. To this end the garment is so con-

structed that it has no seams under the arm pit portion of the sleeve. On the other hand the body portion of the garment is cut in such manner as to provide tongues integral with the body portion. These tongues form the under part of the sleeves at the location of the arm pits.

Moreover, the garment is designed to overcome the tendency of the neck portion to stretch out of shape by providing a collar made of a combination of cotton or woolen or rayon yarn and lastex. The lastex will allow the neck portion to be pulled over the wearer's head in an easy manner and immediately thereafter to conform to its normal shape. Furthermore, the garment is designed to overcome the tendency of the body portion to slide upward when worn by making the band at the lower edge of the body portion of a combination of cotton or woolen or rayon yarn and lastex.

THE CLAIMS

Claims 3 to 6 were in the application during its pendency in the Patent Office before the Primary Examiner. All of the claims were finally rejected in the Patent Office.

Claim 3, which is representative, reads upon the structure shown in the drawings as follows:

3. In a sweat shirt,

- (a) a neck portion made partially of lastex,
- (b) a body portion made of tubular knitted fabric.
- (c) tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts,
- (e) shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch,
- (f) and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

The reading of the claim on the structure is obvious. The sleeve extensions 20, 20 eliminate the seams at the shoulder

portions and help strengthen that portion of the garment, the tongues 6, 6, under the arm pits, eliminate seams at that location and help to prevent ripping, whereas the lastex knitted with the other yarn into the neck prevents sagging and its location in the lower band 2 tends to prevent the body of the garment sliding upward on the wearer.

Claims 4, 5 and 6 are drawn along the same lines as claim 3 although a little narrower in scope.

REFERENCES APPLIED TO APPLICANT'S INVENTION

Huels

The patent to Huels, a copy of which is shown on pages 43-46 of Appendix, shows an undergarment and not a sweat shirt for athletes as in applicant's garment. See lines 9 to 13, page 1, underscoring ours. The problem is quite different between Huels and applicant's garment. In the undergarment of Huel it is not necessary to hold the shape, whereas in a Sweat shirt like applicant's shape is paramount.

At best Huels, Fig. 1, shows only one element of applicant's garment, namely the extension of the upper side of the sleeve to the neck opening. The yoke of sleeve portion 8 of Huels is cut from a single piece of material, Fig. 2, see lines 67-68, page 1, of the specification. Fig. 5 shows sleeves 32 and 33 of separate pieces but neither modification shows the tongues 6, 6 under the arm pit of applicant's construction.

In Fig. 1 of Huels the sleeves 8 are completed by seams 15 and 16 which extend up the arm pits. These seams are avoided in applicant's garment on the under side of the arm pit along tongues 6, 6.

Bannigan testified that Huels had a seam around the arm pit, that there was no protection of the arm-pit. See page 18 of the Appendix.

Redmond

The patent to Redmond, a copy of which is shown on pages 47-55 of Appendix, shows extensions 26 in Figs. 1, 6 and 8, see lines 54, 55, page 2 of the specification, underscoring ours. Extensions 26 of Redmond were cited by the Primary Examiner at the Patent Office to anticipate the tongues 6, 6 of applicant's structure.

However, Redmond did not have the same problem before that applicant had, for Redmond's garment is designed for an infant's shirt or undershirt, see line 43, page 1, column 1 of the specification, underscoring ours.

Moreover, the extensions 26 of Redmond are one feature only of applicant's garment.

Bannigan testified that Redmond had a seam over the shoulder. See page 18 of the Appendix.

Fagan

The patent to Fagan, a copy of which is on pages 56-58 of Appendix, was cited by the Solicitor in his answer to the complaint in suit.

This patent shows the bottom of the garment and the wrist of the sleeves at 7 being provided with the improved elastic fabric 7. See lines 54 to 56, page 1, of the specification.

COMMERCIAL USE

Appellant's garment has had a wide commercial use which has increased progressively from the year 1941. Mr. Aloysius J. Bannigan, the salesman and assistant to the president of the Oneita Knitting Mills, appellant, testified at page 14 of the Appendix that in the three-year period from 1941 over one hundred and sixty thousand dozen of the garments in suit had been sold.

That in the year 1941, sales amounted to 38,503 dozens, page 14 of the Appendix.

That in the year 1942, sales amounted to 58,748 dozens, page 15 of the Appendix.

That in the year 1943, sales amounted to 66,441 dozens, page 15 of the Appendix.

LAW OF THE CASE

Piecemeal rejection

The references at best are only a piecemeal anticipation, as was stated in *Ex parte Smith*, to wit:

Combinations should be met as such or not at all. The practice of dissecting a combination and rejecting it piecemeal is without the sanction of reason or law. Under such practice the lever, the pulley and the inclined plane would soon become a sufficient reference for every mechanical contrivance.

Ex parte Smith, 1 O. G. 403.

Webster Loom Co. v. Higgins, 21 O. G. 2031.

Dayton Malleable Iron Co. v. Forster, 153 Fed. Rep. 201.

CONCLUSION

1. Huels shows an undergarment, at best it shows only one alleged element, yoke 17, of applicant's garment.

2. Redmond is a shoulder supported garment and at best shows only one element of applicant's garment, extensions 26.

3. Fagan shows an elastic fabric applied to the sleeves at 7, whereas applicant does not use the lastex in the end portions of the sleeves. Fagan does not show any other feature of applicant's garment.

It is respectfully submitted that the appellant, Oneita Knitting Mills is entitled to have the claims; that the decision of the District Court should be reversed and the claims allowed.

Respectfully,

DONALD A. GARDINER,
THOMAS L. WILDER,
Attorneys for Oneita Knitting Mills.

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Appeal from the District Court of the United States for the
District of Columbia.

JOINT APPENDIX.

I.

**PLEADINGS, DOCKET ENTRIES AND OTHER
PAPERS.**

1

Filed Feb 14 1944

District Court of the United States for the District
of Columbia.

ONEIDA KNITTING MILLS, *Plaintiff*,
851 Broad St., Utica, N. Y.,

v.

CONWAY P. COE, Commissioner of Patents, *Defendant*.

Complaint to Compel Issuance of Patent.

The plaintiff complaining of the defendant respectfully
shows this court:

First.

The Plaintiff is a corporation organized and existing
under the laws of the State of New York, and having a
principal place of business at 851 Broad Street, in the City
of Utica, County of Oneida, State of New York.

Second.

The defendant, Conway P. Coe, is the Commissioner of
Patents, of the United States, a legal resident of the Dis-
trict of Columbia and is sued as Commissioner of Patents
of the United States.

Third.

This bill is filed in accordance with the provisions of the
Federal Laws of the United States as provided for under
Revised Statute 4915.

Fourth.

That John T. Shea, filed an application for a patent in
the United States Patent Office entitled Sweat Shirt on

October 16, 1940, which was given the Serial No. 361,445; that said application was assigned by said John T. Shea to Oneita Knitting Mills, the plaintiff by an instrument acknowledged October 16, 1940, which was recorded in the United States Patent November 4, 1940 in Liber S 185 at page 131.

Fifth.

That said application was filed in accordance with the Laws of the United States and the Rules of the Patent Office.

Sixth.

That said application has been duly prosecuted in accordance with the Laws of the United States and the Rules of the Patent Office.

2

Seventh.

That said application has been passed upon by the Primary Examiner who refused to allow the following claims:

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

4. In a sweat shirt, a neck portion made partially of lastex, whereby to hold said neck portion in normal position, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said

tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part, shoulder pieces formed on said sleeves seamed to said body part and to said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging, and said body portion having a lower band made partially of lastex, whereby to aid in holding the lower part of the garment tightly to the wearer.

5. In a sweat shirt, a neck portion made of a stretchable material, a body portion made of tubular knitted fabric, tongues integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part and shoulder pieces formed on said sleeves seamed to said body part and said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging.

6. In a sweat shirt, a crew collar made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric made by cutting the lateral edges of said body portions that taper towards the bottom of said cuts, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body portion, shoulder pieces formed by extending said sleeves, and said shoulder pieces seamed to said body portion and to said neck portion to form a seamless shoulder and to allow for transverse stretch across the shoulder portion for the comfort of the wearer and to prevent longitudinal stretch, whereby to eliminate sagging of the garment at the arm holes.

Eighth.

The applicant appealed from the decision of the Primary Examiner to the Board of Appeals who affirmed the rejection of the Primary Examiner in their decision dated September 9, 1943.

Ninth.

3 The Commissioner of Patents by the Board of Appeals contends that the garments shown in the references, to wit:

Huels	1,288,417	Dec. 17, 1918
Redmond	2,035,377	Mar. 24, 1936

anticipate the sweat shirt called for by the aforesaid claims in suit; that there is no invention in applicant's sweat shirt in view thereof.

Tenth.

That plaintiff disagrees with these contentions of the Commissioner of Patents and contends that the references mentioned above or any other references do not anticipate the sweat shirt in suit; that there is invention in said sweat shirt.

Eleventh.

The plaintiff further states that the said invention is new and useful, and was not known or used by others in this country before the invention thereof by said John T. Shea, and not patented or described in any printed publication in this or any foreign country before his invention thereof or more than one year prior to his application for patent therefor, and not in public use or on sale in this country for more than one year prior to said application, and not patented in any foreign country by said John T. Shea or his legal representatives on an application filed more than twelve months prior to said application for United States Patent and not abandoned.

Twelfth.

That plaintiff is now the sole owner and holder of said application of John T. Shea, aforesaid.

Wherefore the plaintiff prays that the Honorable Court decree that the Commissioner of Patents be directed to allow the said claims, and such other claims as upon hearing the Court may find patentable.

ONEITA KNITTING MILLS,
By ROGER J. ROCK,
Treasurer.

Of Counsel:

THOMAS L. WILDER, *for plaintiff*,
305 Mayro Bldg.,
Utica, N. Y.,

DONALD A. GARDINER,
922 Woodward Bldg.,
Washington, D. C.

4 STATE OF NEW YORK,
County of Oneida, ss:

Roger J. Rock, being duly sworn, says: That he is the Treasurer of the Oneita Knitting Mills, the plaintiff above named, a corporation of the State of New York, and that he has read the foregoing complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to matter therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

ROGER J. ROCK.

Sworn to before me, this 4th day of February, 1944.

MARGARET J. EVANS,
Notary Public, Oneida County, New York.

• • • • •

5

Filed Mar 7 1944

Answer to the Complaint.

To the Honorable the Justices of the District Court of the
United States for the District of Columbia.

First.

Defendant admits the allegations of the first paragraph.

Second.

He admits the allegation of his official position and admits that is sued in his official capacity. He denies that he is a legal resident of the District of Columbia. He states that while he is an official resident of the District of Columbia, he is a legal resident of the State of Maryland.

Third, Fourth, Fifth, Sixth, Seventh and Eighth.

He admits the allegations of the third through the eighth paragraphs.

6

Ninth.

He admits that by the decision of the Board of Appeals affirming the rejection by the primary examiner of claims 3 to 6, inclusive, of the application of John T. Shea, Serial No. 361,445, entitled Sweat Shirt, he has held that said claims are unpatentable in view of the patents listed in the ninth paragraph.

Tenth.

He admits that plaintiff disagrees with the decision of the Board of Appeals and makes the contentions set out in the tenth paragraph. Defendant denies such contentions and states that said claims 3 to 6, inclusive, are unpatentable in view of the following prior patents and for the reasons given in the statement of the examiner in answer to the appeal and the decision of the Board of Appeals, copies of which will be furnished at the trial:

Huels,	1,288,417,	Dec. 17, 1918,
Redmond,	2,035,377,	Mar. 24, 1936,
Fagan,	1,669,868,	May 15, 1928.

Profert of copies of these patents is hereby made.

Eleventh.

He admits that in said application John T. Shea made averments corresponding to the allegations of the eleventh paragraph but denies, for reasons aforesaid, that such allegations are sufficient to justify the issuance of a patent containing any one of claims 3 to 6, inclusive, of said application.

Twelfth.

He admits for the purpose of this action the allegation of ownership by plaintiff of said application of John T. Shea.

W. W. COCHRAN,
Solicitor, U. S. Patent Office,
Attorney for Defendant.

March 6, 1944.

• • • • •

30

Filed Nov 9 1944

Memorandum

Judgment for Defendant,
Notify Counsel
Nov. 9th 1944

DANIEL W. O'DONOGHUE
Justice

• • • • •

Filed Dec 5 1944

Findings of Fact and Conclusions of Law.

Findings of Fact.

1. This is an action under Section 4915 R. S., (U. S. C., title 35, sec. 63) in which plaintiff, the owner of the patent application No. 361,445 of John T. Shea, seeks a judgment that would authorize defendant to issue to plaintiff a patent containing claims 3, 4, 5 and 6 of the application.

2. The application relates to a sweat shirt which is described as follows in claims 3 of the application:

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

32 3. The patent to Huels, No. 1,288,417, of December 17, 1918, discloses a knitted under garment in which shoulder portions are formed on the sleeves and are joined to the body portion and neck portion of the garment. In this respect the under garment of Huels corresponds to the shirt claimed in the Shea application.

4. The Redmond patent, No. 2,035,377, of March 24, 1936, discloses an undergarment in which the body portion is made from tubular knitted fabric. In making the garment tongues are formed integral with the body portion by slitting the lateral edges of the body portion. In the finished garment these tongues extend outwardly from the body portion and form seamless under portions of the sleeves at the armpits. This construction of the under portion of the sleeve is the same as that claimed in the Shea application.

5. In the garment disclosed in the Redmond patent the

knitted material is so cut that the wales extend lengthwise of the sleeve. This arrangement allows for transverse stretching across the shoulder portion of the sleeve and restricts lengthwise stretching.

6. The Fagan patent, No. 1,669,868, of May 15, 1928, and the Crossingham patent, No. 2,157,482, of May 9, 1939, show the use of lastex or equivalent elastic material at the bottom, the collar and the cuffs of knitted garments to provide a snug fit on the wearer.

7. It was not invention, in view of the prior art, to incorporate in one garment the features of construction set forth in the claims.

33 8. The claims are unpatentable over the prior art.

Conclusions of Law.

1. Plaintiff is not lawfully entitled to receive a patent containing any of claims 3, 4, 5 and 6 of the Shea application No. 361,445.

2. The Complaint should be dismissed with costs against plaintiff.

DANIEL W. O'DONOGHUE

Justice.

Dec. 5th 1944

* * * * *

34

Filed Dec 5—1944

Judgment.

This action came on to be heard at this term and thereupon upon consideration thereof, it is this 5th day of December, 1944,

Adjudged that the complaint be and it is hereby dismissed, with costs against the plaintiff.

DANIEL W. O'DONOGHUE,

Justice.

Approved as to Form:

.....

Attorney for Plaintiff.

* * * * *

II. TESTIMONY AND PROCEEDINGS.

8 Washington, D. C., Thursday, October 26, 1944.

• • • • •

9 The Clerk of the Court: We are ready with the patent case, your Honor.

The Court: Let us proceed, then.

Mr. Smith: May it please your Honor, I appear before you on behalf of Oneita Knitting Mills, the plaintiff in this case, and respectfully request that Mr. Thomas L. Wilder be recognized as counsel; he will attend to the argument of this case. Mr. Wilder is a member of the Bar of the State of New York and a member of the Bar of several Federal Courts and is fully qualified to appear before this Court.

The Court: We will be glad to have Mr. Wilder appear in this case.

Now, do you wish to proceed with an opening statement, Mr. Wilder?

Mr. Wilder: If you please, your Honor.

Now, if the Court please, this case is a suit under Section 4915 of the Revised Statute, based on a rejection, in the Patent Office, of a petition by John T. Shea who filed an application for Letters Patent for sweat shirt.

That application of John T. Shea was assigned to Oneita Knitting Mills, the plaintiff in this case.

The application was rejected on references.

We thereupon took an appeal to the Board of Appeals of the Patent Office and they affirmed the findings of the Primary Examiner of the Patent Office.

We then moved the case into this court and we are here today to submit our evidence before the Court.

10 We intend to offer in evidence the file wrapper of the proceedings in the Patent Office and we also intend to offer in evidence one of the garments here in suit and we also propose to present a witness who will show that there has been considerable commercial value to be gotten from the garment.

That is substantially the case.

Mr. Cochran: May it please the Court:

The evidence that will be adduced in this case will show that so far as the underarm feature of plaintiff's sweat shirt is concerned that is found in the patent to Redmond, offered in evidence; and, so far as the shoulder structure of plaintiff's sweat shirt is concerned, that is shown in the Huels patent.

There is another feature which may be discussed and that is the manner in which the shoulder may stretch. That is recited in the claim but the structure to support such an operation or stretching is not recited in the claim. However, even if it had been, it would be anticipated anyway by the Redmond patent.

The position of the Patent Office, therefore, is that there is nothing in the claim that amounts to invention over those two patents.

As to the final feature, namely the lastex bottom of the sweat shirt and sleeve and collar, that is an old feature shown in the Fagan patent and two others, the patent to Martin and the patent to Crossingham, cited by the office.

Mr. Wilder: I will ask leave to offer in evidence the file wrapper of the Patent Office in this case, as "Plaintiff's Exhibit No. 1".

The Court: That will be received in evidence as "Plaintiff's Exhibit No. 1," there being no objection I take it.

11 Mr. Cochran: No, there is no objection.

(Thereupon the "File Wrapper" of the United States Patent Office, "in the matter of the Application of John T. Shea, filed October 16, 1940, Serial Number 361,445 for Improvement in Sweat Shirt" was thereupon received in evidence and was marked "Plaintiff's Exhibit No. 1.")

Mr. Wilder: I will call Mr. Bannigan.

Thereupon **Aloysius J. Bannigan, Jr.** was called as a witness for and on behalf of the plaintiff herein, and being then and there duly sworn by the Clerk of the Court, assumed the witness stand and, upon examination, testified as follows:

Direct Examination

By Mr. Wilder:

Q. Mr. Bannigan, give your full name, age, and occupation. A. My full name is Aloysius J. Bannigan; my age is thirty-six years; and my occupation is salesman and assistant to the president of the Oneita Knitting Mills, Utica, New York.

Q. And the Oneita Knitting Mills is the plaintiff in this suit. A. Yes.

Q. And how long have you been employed with them? A. Fifteen years last February.

Q. And will you state more particularly your duties in connection with the Oneita Knitting Mills? A. Well, I have, really, two capacities there:

I work directly out of the plant, on the road; I call on the wholesale drygoods and knit goods distributors in the several states of New England.

12 When I am at the plant my time is spent there in working out new ideas and building samples and so on and so forth.

Q. And you do travel considerably throughout the country, as salesman for the company? A. Yes, I do.

Q. And through what territories do you travel as salesman for the company? A. I travel through New York, Ohio, West Virginia, Pennsylvania, Kentucky and the New York City Metropolitan area.

Q. Do you know John T. Shea, the applicant for the patent in suit? A. I do.

Q. Was he connected with the Oneita Knitting Mills? A. Yes, sir, he was at one time.

Q. And what was his connection with the Mills? A. Mr. Shea was vice president and general manager for a period of years.

Q. And he was the inventor of this garment in suit? A. Yes, he was.

Q. Do you know where Mr. John T. Shea is at the present time? A. No, sir, I do not.

Q. Is he connected with Oneita Knitting Mills, the plaintiff in this suit? A. No, he is not any longer connected with the company.

Mr. Wilder: I ask to have this marked for identification (indicating a sweat shirt).

The Court: No. Offer it in evidence instead of having it marked for identification.

13 Mr. Wilder: I will offer it in evidence, if your Honor please, as "Plaintiff's Exhibit No. 2".

Mr. Cochran: I would like to see it before your Honor accepts it in evidence to see if it is made in accordance with the patent.

(The exhibit in question was examined by Mr. Cochran.)

Mr. Cochran: I offer no objection to it.

The Court: It will be received in evidence as "Plaintiff's Exhibit No. 2".

(Thereupon the sweat shirt above referred to was received in evidence and was marked "Plaintiff's Exhibit No. 2.")

By Mr. Wilder:

Q. Mr. Bannigan, I show you Plaintiff's Exhibit No. 2 and I will ask you if you can identify that (handing the exhibit in question to the witness). A. (after examining the exhibit last above referred to) That is a Full Freedom Sleeve Sweater Shoulder Sweat Shirt made by the Oneita Knitting Mills.

Q. And that is made in accordance with the patent here in suit? A. That is correct.

Q. Have you sold any of these garments? A. Yes, I have. I have sold many thousands of dozens of them.

Q. Can you give me the number that you sold in the year 1941? A. In the year 1941—I can give you an overall picture; I sold in the three year period over one hundred and sixty thousand dozen.

14 In 1941, expressly, 38,503 dozens.

Q. Do you know about where you sold those garments? A. Yes.

Q. Can you name some of the places? A. Well, I sold them to Brownder Company—

Q. (interposing) Just give the location. A. Boston, Massachusetts. The Stettheimer Company, San Francisco. They were sold also to the Cleveland Wholesale Drygoods Company, Cleveland, Ohio; and to the Carter Wholesale Drygoods Company in Louisville, Kentucky.

Do you want any more?

Q. That is enough.

How many did you sell in the year 1942? A. In the year 1942 we sold 58,748 dozens.

Q. And were those pretty well distributed around the country? A. There was National distribution of them.

Q. How many did you sell in the year 1943? A. In 1943 there were sold 66,441 dozens.

Q. And what does that total amount to? A. 160,692 dozens over the three years.

Q. Now, can you tell me the particular advantages of that garment over standard shirts heretofore made? A. Sweat shirts heretofore made had an overarm and underarm seam which had a tendency to bind on the wearer who usually was engaged in strenuous activity, and, in conjunction with that, the shirt was very apt to sag and stretch out at the shoulder and neck, and while it is an excellent and desired utility garment, due to those drawbacks it did not
15 have the acceptance it should have had because of the restriction on the wearer.

Q. Can you tell me the particular advantage in this shoulder piece here (indicating on the exhibit)? A. Well, this shoulder piece here, which is a part of the sleeve, first of all eliminates a top shoulder seam on which there is, ordinarily, great strain and, through experience, is the first part of the shirt to give way.

In addition to that, the wales of the cloth running longitudinally into the shoulder against the grain of the body of the shirt, and this prevents a sagging and gives additional shoulder room, reenforces the shoulder, by putting in an extra seam and eliminates a top shoulder seam.

Q. Can you show me the particular advantages of this tongue in the pit of the garment (indicating on the exhibit)?

A. The tongue in the arm of the garment eliminates any binding under the arm.

In the particular case where this is used, as a football practice jersey and shoulder pads are put under it, the ordinary shirt tightens up and there is no freedom of action for the wearer, as part of the body.

There is no seam underneath the arm-pit and the sleeve becomes a part of the body, giving it all the additional fullness that you see here (indicating on the exhibit).

Mr. Wilder: I think you may cross-examine.

Mr. Cochran: No cross-examination; no questions.

(The witness thereupon was excused and retired from the witness stand.)

Mr. Wilder: That is our case.

The Court: Let me see that exhibit.

16 ("Plaintiff's Exhibit No. 2" was examined by the Court.)

The Court: Very well; you may proceed.

Mr. Cochran: May it please the Court, I offer in evidence the exhibits of the Patent Office; that will be "Defendant's Exhibit No. 1" and consists of the Huels Patent No. 1,288,417; The Redmont Patent, No. 2,035,377; the Fagan Patent, No. 1,669,868; a print of drawings; the Examiner's statement and the Decision of the Board of Appeals.

The Court: Very well.

(The record of the Patent Office containing the data last above mentioned was thereupon received in evidence and marked "Defendant's Exhibit No. 1.")

Mr. Cochran: As "Defendant's Exhibit No. 2" I offer in evidence a copy of the Crossingham Patent No. 2,157,482.

The Court: Very well.

(A copy of the Crossingham Patent No. 2,157,482 was thereupon received in evidence and was marked "Defendant's Exhibit No. 2.")

Mr. Cochran: As "Defendant's Exhibit No. 3" I offer in evidence a copy of the Martin Patent No. 2,171,220.

The Court: Very well.

(A copy of the Martin Patent No. 2,171,220 was thereupon received in evidence and was marked "Defendant's Exhibit No. 3.")

Mr. Cochran: That is all the evidence on behalf of the defendant.

The Court: Well, now, does that conclude the evidence?

Mr. Wilder: I think I will call Mr. Bannigan back to discuss the references:

The Court: Very well.

17 Thereupon **Aloysius J. Bannigan, Jr.**, the witness heretofore sworn by the Clerk of the Court, examined on direct examination, cross-examination being waived, was recalled as a witness and, upon further examination, testified as follows:

Direct examination on rebuttal

By Mr. Wilder:

Q. Mr. Bannigan, you have studied over the references of Huels, Redmond and Fagan in this case? A. That is correct.

Q. You have also studied the claims of the plaintiff here in suit? A. That is correct.

Q. Now, I show you a copy of the Huels patent, No. 1,288,417, and I will ask you in what respect the plaintiff's application differs from the patent to Huels. A. (upon examining the patent in question). It differs in this main respect, that there is a seam around and under the arm-pit of the garment.

By the Court:

Q. You mean in the Huels patent? A. In the Huels patent.

By Mr. Wilder:

Q. In other words, it does not have the tongue integral with the body of the garment? A. It does not have, from the drawing, no.

Q. There is no protection in the arm-pit there? A. No, sir, there is not.

18 Q. I show you a copy of the Redmond patent, No. 2,035,377, and ask you in what respect that patent differs from the plaintiff's application. A. This garment here has the seam over the shoulder, around the arm.

Q. Whereas the plaintiff's garment does not have the seam there, does it? A. That is correct.

Q. I show you a copy of the patent of Fagan, No. 1,669,868, and I will ask you whether or not that has a shoulder piece or a tongue under the arm-pit. A. There is, definitely, no shoulder piece.

I doubt that there is a tongue under the arm-pit from the picture submitted, but I could not be sure, because it does not show up.

Q. None is shown there? A. None is shown.

Q. Now, in Claim No. 1, here in suit it is numbered 3 in the file wrapper, that emphasizes there a tongue, does it not, tongues formed integral with the body? A. That is correct.

Q. And it emphasizes the shoulder piece, does it? A. That is correct.

Q. Now, in Claim No. 4, that also emphasizes the tongues and the shoulder pieces, does it? A. That is right.

Q. And it also includes the neck portion, the lastex in the neck portion? A. Yes.

19 Q. And in the lower part? A. Yes.

Q. And Claim No. 5 also emphasizes the tongue, does it not? A. That is right.

Q. And also the shoulder pieces? A. That is right; yes, that is true.

Q. And Claim No. 6 emphasizes the tongues, does it not? A. Right.

Q. And also the shoulder pieces? A. Correct.

Q. And it also emphasizes the lastex, the collar made of lastex? A. That is right.

Mr. Wilder: That is all. You may cross-examine.

Cross-Examination

By Mr. Cochran:

Q. In reference to the Huels patent, is it true that there is disclosed in that patent, in figures 1 and 5, a sleeve portion which extends to the neck of the garment? A. Yes, I would say so.

Q. And with reference to the Redmond patent, is it not true that in Figure 1 there is shown a garment which has an integral underarm portion extending outward from the body to form a portion of the sleeve? A. That is correct.

Q. And in this respect is it not true that the Redmond disclosure is similar to the sweat shirt that has been offered in evidence? A. That particular portion, the tongue part
20 integral to the body, is similar, that particular section of it.

Q. That was all I referred to in that question. A. Yes.

Q. Now, coming to the Fagan patent, is it not true that there is shown a cuff portion and belt portion at the bottom of the sweater which are made of lastex? A. Yes.

Mr. Cochran: That is all.

Mr. Wilder: That is all.

(The witness thereupon was excused and retired from the witness stand.)

The Court: The evidence on both sides is completed?

Mr. Cochran: Closed, your Honor.

Mr. Wilder: Yes.

The Court: Do you want to summarize the case?

Mr. Wilder: I beg your pardon?

The Court: Would you like to make a closing statement?

Mr. Wilder: Yes, I will be glad to do that.

May I have the garment?

(Plaintiff's Exhibit No. 2 was handed to counsel.)

Mr. Wilder: I might say that although commercial value perhaps in and of itself is not considered patentable of course, yet when you take it into consideration with all other things, this garment has had a wide, large, commercial value as was testified to by Mr. Bannigan, and one of the principal reasons for that is that in a sweat shirt of this nature, which is used by athletes, it is particular desired to have itself or have it hold its shape. Most garments heretofore, as he testified to, of this nature, sag at the neck or shoulders and in a very short time become unsightly and out of shape and sag on the person.

Now, the reference introduced by Mr. Cochran here, the Huels patent, in Figures 4 and 5, particularly 5 and not so much in Figure 4, but in 5, he does show his sleeve connected here at the shoulder. But that is the only feature of the application in suit here that it shows.

Now, the patent to Redmond which he introduced shows in Figure 1 a tongue twenty-six, but it does not show the shoulder piece. That garment would not hold its shape, and neither would the Huels' garment.

Of course, the Huels garment is not a sweat shirt. It is an undergarment.

Redmond does have the tongue, but he does not have the other features, such as the lastex of the body here around this part of the garment and the neck.

It could not hardly be used as the sweat shirt produced by the applicant is used.

The patent to Fagan, well, the only feature that that shows is the lastex in the sleeve 7. I do not know about the neck. It might be that there is lastex in the neck, but it is only shown in the sleeve, 7, here and the lower part of the body. Those are the only two features there that that patent shows. It does not show the shoulder pieces or the tongues under the arms.

Now, our claims here in suit, each of them express these differences:

They express the shoulder pieces; they express the tongues under the arm-pits, and I think by possibly one or two of them, they express also the lastex in the neck and in the lower part of the body.

22 In other words, applicant has got a garment here that will hold its shape longer than any similar garment heretofore made.

The Court: What is the significance of using the word "sweat" in connection with the sweat shirt?

Mr. Wilder: Well, that refers particularly to an athlete garment. It is worn by athletes.

The Court: Do any of the other patents use that word?

Mr. Wilder: No, I do not think they do.

In the case of Huels, the garment is another garment altogether, not used for that purpose. That is a child's undergarment.

And the Redmond garment is an infant's shirt.

The Fagan garment is a sweater, having buttons in front there, and it is more of a dress sweater, not for athletes.

None of these garments are used for athletes.

None of the references—

The Court (interposing): You mean, when you speak of it as a "sweat shirt" that it serves the purpose of making a person sweat?

Mr. Wilder: Well, it absorbs—

The Witness Bannigan (interposing): It induces perspiration and the inside of the garment is napped with very soft cotton and absorbs that perspiration.

The Court: Very well.

Mr. Cochran: May it please the Court:

There are three features here that are recited in the claim: One of them is the fact that the sleeve, the upper portion of the sleeve, extends to the collar of the garment; another feature is the integral extension from the body of the garment under the arm to the sleeve; the third one, of course, is the lastex feature under the arms and at
23 the bottom.

The Court: What is that lastex?

Mr. Cochran: It is a lastex portion—

The Court (interposing): Around the body?

Mr. Cochran: I forget whether it is around the cuff or the neck.

Mr. Wilder: Around the neck.

Mr. Cochran: Of course, your Honor has seen the sweaters that are pulled over the head and you have to stretch them in order to pull them over the head and they have to fit around the neck. I think the references will show that it is a rather common feature.

Now, the first feature, namely the fact that the sleeve extends up to the neck of the wearer, I think that is shown by the Huels patent very clearly and in all the figures of that patent. That is one feature. That is a feature that is there admittedly. The Huels patent does not shown the other feature, namely, the underarm integral extension.

The Court: Is this sweater and shirt somewhat like what we call the raglan coat?

Mr. Cochran: I think it is somewhat like the raglan coat although I cannot say exactly.

Of course, the raglan sleeve does not have the same condition at the shoulder.

The Court: It goes all the way up to the neck.

Mr. Cochran: I thought of that too when I saw this case, but I am not enough of an expert in sleeves to say it is a raglan sleeve.

The Court: Well, that is what we used to call them.

24 Mr. Cochran: They still do in clothing.

Concerning the other feature, namely the underarm extension from the body of the garment, that I think is very clearly shown in the Redmond patent which is marked "B" of Defendant's Exhibit No. 1.

If your Honor will refer to Figure 6, on Sheet 3, we find there the view of the undergarment structure in which the portion 26 corresponds directly to the portion 6 of plaintiff's structure, and plaintiff's witness conceded that.

The Court: Were there any claims allowed by the Patent Office.

Mr. Cochran: No. No claims were allowed by the Patent Office.

There is one further feature which has not been mentioned in the testimony but is in the claim, and that is that the— taking for example, the last portion of claim 6, it states:

“ . . . and said shoulder pieces seamed to said body portion and to said neck portion to form a seamless shoulder and to allow for transverse stretch across the shoulder portion for the comfort of the wearer and to prevent longitudinal stretch, whereby to eliminate sagging of the garment at the armholes.”

Now, it appears from the specification of Plaintiff's application that in order to get this operation it is necessary that the wales of the knitted garment to be in a certain direction, namely longitudinal of the sleeve so that the sleeve will not stretch longitudinally but transversely, as any knitted garment may be stretched, some in one direction and then in another.

25 Plaintiff's application explains the wales. However, the claim merely calls for the result. It does not say that the cloth is so arranged and cut and put together that the wales will be so arranged that a stretch will be prevented and a transverse stretch permitted.

So that the claim, if this were a feature of novelty worthy of protection, yet the claim does not recite it in its structural matter.

But I do not think much time need be spent on that point, because the Redmond patent clearly shows precisely this arrangement of the wales. If you refer to Figure 1 of the patent, your Honor will see that there are little portions, 13, both on the sleeves and on the body which show the direction of the wale.

The Court: Is not that also shown that way on Figure 1 of the plaintiff's patent?

Mr. Cochran: Yes, your Honor, it is shown on the body portion and I assume it would be the same on the sleeve.

However, the point I make is not that the plaintiff did not disclose it but he did not recite in his claims that the wales were arranged longitudinally, in that manner, thereby to produce the result he calls for. That makes the claim, in a sense, functional and certainly the claims cannot be said to distinguish from the references in that respect when the claim does not recite the wales or how they are arranged.

The Court: Well, it said in Claim 3:

"To allow for a transverse stretch across the shoulder but not a longitudinal stretch."

Mr. Cochran: Yes. All of the claims say that. That is the result of the particular arrangement of the wales.

26 The Court: You think they should use the word "wales"?

Mr. Cochran: He should have said, I think, in order to support this operations statement that the "wales extend lengthwise of the arm whereby to produce these results."

The Court: But when you have the drawings showing the wales are longitudinal in their claim, I think it would be rather captious to say—

Mr. Cochran (interposing): I know I have not made myself clear, your Honor. It is clear enough that the plaintiff has disclosed it all right, but many decisions say that in order to set forth a function you must recite in the claim the structure that produces that function.

I think I have spent too much time on that because it is fully shown in the Redmond patent anyway.

Now, as to the last feature, namely the lastex around the collar: We have not only the Fagan patent which shows it around the cuffs and the bottom although it actually does not show it around the top, but there is in the record in the prosecution of the case in the Patent Office two other patents, one to Martin showing a sweater with a lastex top as well as bottom and sleeves and cuffs, and also the Crossingham patent which shows a lastex top on a knit undergarment.

Your Honor questioned the plaintiff as to what a sweat shirt is and the plaintiff explained and also stated that those other references are. I submit it is just as important for a person wearing a night shirt or any undergarment to be comfortable and have freedom in the movement of his arms as it is for an athlete when wearing a sweat shirt.

I think these references are, clearly, analogous
27 references and that there could be no invention in combining the three features that have been combined from the three patents cited.

There are many decisions that I could quote to your Honor and cite to your Honor on the point of combining references.

The Court of Custom Appeals, Customs and Patents Appeals, stated in the case reported at 134 Federal Second, 414, that appellant emphasized that there is no reference which shows the invention. But the Court said: "Appellant emphasizes that

'there is no reference which shows the invention.' This may readily be agreed to, but it is entirely proper to consider several references in connection with the allowance of patent claims."

There are many other decisions here in cases where they bring together in one structure the features taken from various prior art structures and the courts have held that that is not an invention.

The Court: There is a thought in the mind of the Court as to how these other patents were issued: You have, one, two, three, four, five, patents issued in regard to shirts and sweaters. If the Patent Office saw fit to issue patents to all those people, and many of them seem to be very much alike, the Court is thinking of whether one more patent or one more shirt would make any difference.

Mr. Cochran: The trouble with that reasoning is, your Honor, I think now that the patents have been granted showing these features it would be not justifiable to grant another showing the same features.

The Court: Suppose they are the same, except that they are just a little different.

28 I am just thinking out loud. I will, of course, take the case under advisement and approach it with an open mind.

Mr. Cochran: If that were the attitude there would be very few cases he could ever reject, because it is rarely that we find an exact picture of the thing in the prior art.

The Court: Well, you have concluded your remarks.

I will take the case under advisement and approach it with an open mind.

As I say, in making a coat a certain way, a tailor makes it in his certain way and puts the angles together in a different fit, like the raglan overcoat, and then another tailor comes along and puts a sleeve on the overcoat some other different way, and if each one gets a patent on it and the third man comes along and puts them together in a little different way again, the question is whether he might not get a patent on that. I must confess that some of these patents here seem to be rather unusual patents to be granted. I do not see anything very novel in some of these several patents, although they are granted.

I will take the case under advisement and see what I can do.

None of these have the idea as to just how the goods may be knitted.

Mr. Wilder. No, I do not think so. Well, Huels is knitted.

Mr. Cochran: The Redmond patent, your Honor, shows that.

The Court: But, even at that, this is not the question of a machine that knits, or something that needs to be so many stitches, or tells how many stitches it will take, or anything like that.

Mr. Wilder: No.

29 The Court: If the sales have increased the way the witness says they have it would indicate that there is quite a demand for the shirt or else it is well

advertised and there is good salesmanship. But that is a factor, whether the thing may be sold in large quantities and whether that is admissible in evidence. Well, I will take the case under advisement and the Clerk will notify counsel of the Court's decision.

(Thereupon the instant hearing was concluded.)

* * * * *

III.

EXHIBITS.

Excerpts from Plaintiff's Exhibit No. 1.

41 Specification

To all whom it may concern:

Be it known That I, John T. Shea a citizen of the United States, residing at Utica in the County of Oneida, and State of New York have invented certain new and useful improvement in Sweat Shirt of which the following is a specification, reference being had therein to the accompanying drawing.

42 My invention relates to a Sweat Shirt and I declare the following to be a full, clear, concise and exact description thereof sufficient to enable anyone skilled in the art to which it appertains to make and use the same, reference being had to the accompanying drawings in which like reference characters refer to like parts throughout the specification.

The object of the invention is to provide a garment of the sweat shirt variety that is adapted and used particularly by athletes. It is adapted for use also by other persons who are not athletes. To this end the sweat shirt is equipped with a freedom sleeve that will allow for considerable arm action without tearing the fabric or arm seams of the garment.

Furthermore, the sweat shirt is provided with a shoulder insert made integral with the sleeve portion, whereby to

avoid the usual shoulder seam which is objectional both from a comfort standpoint and from a structural standpoint.

Heretofore, the weak part in the sweat shirt was at the seam adjacent the shoulder where the sleeve was united to the body portion of the garment. This weak feature has been eliminated in the present structure by extending the top portion of the sleeve to form a shoulder piece or strap. The extreme end of said shoulder piece or strap is joined directly to the neck of the garment. The knitted wales of the shoulder piece will allow for a transverse yield across the shoulder but not a longitudinal yield lengthwise of the shoulder.

The weakness of the seam at the arm hole allowed the shoulder portion to sag, whereby the garment lost its shape and became unsightly, whereas in the present structure the seam with its accompanying weakness is entirely eliminated and an unbroken piece of fabric forming an extension of the sleeve, is substituted, whereby the sweat shirt will retain its shape during the life of the garment.

Furthermore, the manufacturers of sweat shirts have experienced some difficulty in mounting the sleeves to the body of the garment in such a manner as to prevent the same from ripping at the arm pit where occurs the greatest strain

43 for the reason that the arms of the athlete when in exercise are swinging at all angles to his body, thereby exerting a strain on the same that hold the sleeves to the garment proper. To this end the garment is so constructed that it has no seams under the arm pit portion of the sleeve, but on the other hand the body portion of the garment is cut in such manner as to provide tongues integral with the body portion. These tongues form the under part of the sleeves at the location of the arm pits.

Moreover the garment is designed to overcome the tendency of the neck portion to stretch out of shape by providing a collar made of a combination of cotton or woolen or rayon yarn and lastex. The lastex will allow the neck portion to be pulled over the wearer's head in an easy manner

and immediately thereafter to conform to its normal shape. Furthermore, the garment is designed to overcome the tendency of the body portion to slide upward when worn by making the band at the lower edge of the body portion of a combination of cotton or woolen or rayon yarn and lastex.

The object will be understood by referring to the drawings in which,

Fig. 1 is a front face view of the garment.

Fig. 2 is a detail view showing a pattern in accordance of which the body portion of the garment is cut.

Fig. 3 is a detail view showing a pattern of one of the sleeves.

Fig. 4 is a detail view somewhat reduced in size showing a tubular piece of fabric with the pattern of the sleeves marked thereon.

44 Referring more particularly to the drawings the sweat shirt has a body portion 1 made of a tubular piece of knitted fabric having its wales running in a vertical plane as illustrated in Fig. 1, whereby to allow for a transverse or lateral stretch of the shirt.

A band 2 of somewhat smaller tubular diameter is seamed to the lower edge of body portion 1, whereby to effect a close fit of the lower part of the sweat shirt to the body of the wearer. Furthermore, the band 2 is made preferably of a combination of cotton or woolen or rayon yarn and lastex to aid also in making a close fit, whereby to prevent the body portion 1 from sliding upward. The lastex will not only aid in preventing the body portion from sliding upward but will also lend comfort to the wearer in performing its function.

This lower band made partially of lastex as above mentioned is an improvement over the old rib tail used on the lower band of like garments. The rib tail was supposed to cling the body at the waist line, whereby to hold the garment in normal position on the body of the wearer. Instead, however, it would stretch out and would not retain the necessary elasticity in the place on the garment where most

needed. It became loose and unsightly and would give a flabby effect to the garment. Whereas the present structure with the use of lastex incorporated at the bottom band 2 of the garment serves to grip the body and thereby hold the garment in normal shape upon the body of the wearer thereof.

Furthermore, a crew collar 3 is seamed to the body part 1 at 4. It is also made of a combination of cotton or woollen or rayon yarn and of lastex, whereby to allow the head of the wearer to be pushed therethrough in a easy manner but also to contract thereafter and allow the collar 3 to retain its normal shape.

The upper part of body portion 1 is slit or cut down on an angle inward along the lines 5, 5 adjacent the lateral edges of body 1, whereby to leave tongues 6, 6 integral with body 1 that form the lower portions of the sleeves 7,7 at the location of the arm pits as shown in Fig. 1. In making the cuts along the lines 5,5 the pattern maker starts to cut a little inward from the outer edge 8, whereby to leave a narrow width at 9.

45 Sleeves 7,7 are cut from a tubular piece of fabric as illustrated in Fig. 4, the pattern is applied in such manner that a given length of tubular fabric 18 will yield the maximum number of sleeves with minimum amount of waste.

In the finished garment, each of the sleeves 7,7 is seamed to tongue 6 which extends part way. The remaining portion of the sleeve has its complementary edges seamed at 19.

The sleeve pattern allows for a sleeve extension 20, that is made by extending the body portion of the sleeve beyond its normal length where it would ordinarily be seamed with the body of the garment at the armhole. Sleeve extension 20 will eliminate a seam at the top portion of the shoulder. Furthermore, extension 20 will cover the shoulder blade of the wearer. Moreover, it will allow for a transverse stretch across the shoulder for the comfort of the wearer but not a longitudinal stretch which will prevent the undesirable fea-

ture of sag at the armhole. It will be observed therefore that extension 20 forms the shoulder portion of the garment and eliminates a seam at the top of the shoulder.

The upper extreme end 22 of sleeve 7 is seamed at 23 to the crew collar 3. Collar 3 is made of a separate piece of tubular fabric comprising cotton or woolen or rayon yarn and lastex fabric, as heretofore described, whereby to allow for stretching at that location and yet retain its normal shape. It is seamed to the body 1 at 24. The wales 26 run in a vertical direction, whereby to allow also for a yield or lateral stretching when pushing the wearer's head there-through.

When each of the sleeves 7 is applied to the finished garment, its wales run vertically along the sleeve 7, whereby to allow for the transverse yield across the shoulder which is desirable for the comfort of the wearer but does not allow for a yield longitudinally which is desirable to prevent sag.

Furthermore, this structure not only allows for the greatest amount of freedom of each of the sleeves 7,7 relative to

body portion 1 but gives the maximum amount of
46 strength at the locations where most needed. The

tube illustrated in Fig. 2 is of course of double thickness, whereby there is left when tongue 6 is unfolded sufficient fabric to form the underside of the arm pit of the sleeve 7.

Substantially s-shaped slits 10,10 are made in tube 1 beginning near the middle or neck portion 11 and terminating at the cuts 5,5 whereby to form edges 12,12 to which sleeves 7,7 are seamed.

Sleeves 7,7 are made from a separate piece of tubular fabric as hereinafter explained. Each of the sleeves 7 is seamed along the line 10, both front and rear and along both edges of tongue 6 to the extreme end 9. Wristlets 16,16 made of a slightly smaller tubular fabric than the sleeves 7,7 are seamed to said sleeves 7,7 at 17,17.

Although as mentioned above lastex is used both in the collar 3 and the lower band 2 to make said parts easily

stretchable. Any like product of lastex which would accomplish the same purpose may be used.

47 Having thus described my invention what I claim as new and desire to secure by letters patent is as follows:

1. In a sweat shirt, a neck portion made partially of lastex, a body portion, sleeves made of separate pieces of material sewed to said body portion on the arc of an s shape circle and parts of said body forming the under portion of said sleeve, whereby to form a seamless underpart and to allow freedom of movement thereof relative to the body part.

2. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, recesses out in said body portion on the arc of an s shape circle, sleeves made of separate pieces of material seamed to said body portion, shoulder pieces formed on said sleeves, whereby to allow transverse flexibility and longitudinal inextensibility to said sleeves.

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

4. In a sweat shirt, a neck portion made partially of lastex, whereby to hold said neck portion in normal position, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part, shoulder pieces formed on said sleeves seamed to said

body part and to said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging and said body portion having a lower band made partially of lastex, whereby to aid in holding the lower part of the garment tightly to the wearer.

48 5. In a sweat shirt, a neck portion made of a stretchable material, a body portion made of tubular knitted fabric, tongues integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part and, shoulder pieces formed on said sleeves seamed to said body part and said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging.

• • • • • • • • •

53 6. In a sweat shirt, a crew collar made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric made by cutting the lateral edges of said body portions that taper towards the bottom of said cuts, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body portions, shoulder pieces formed by extending said sleeves, and said shoulder pieces seamed to said body portion and to said neck portion to form a seamless shoulder and to allow for transverse stretch across the shoulder portion for the comfort of the wearer and to prevent longitudinal stretch, whereby to eliminate sagging of the garment at the arm holes. .

• • • • • • • • •

14-48-5

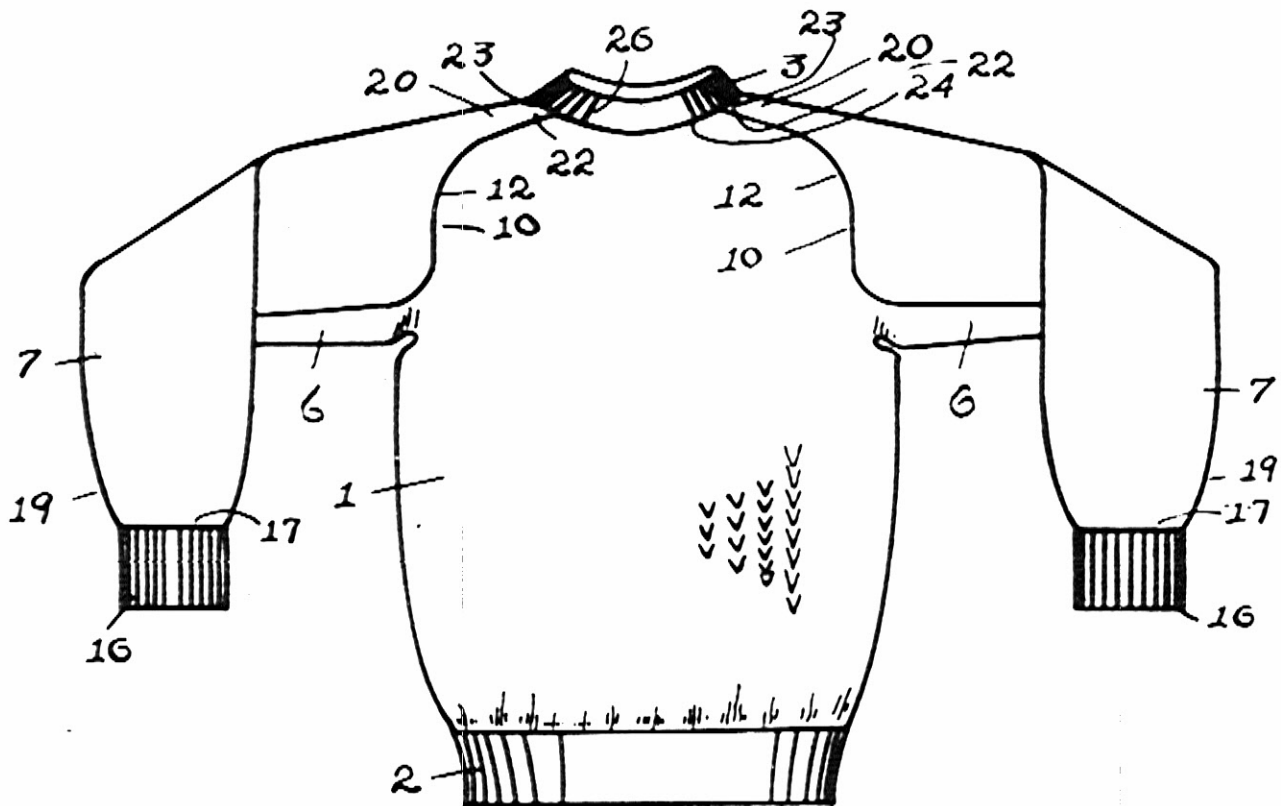


FIG 1

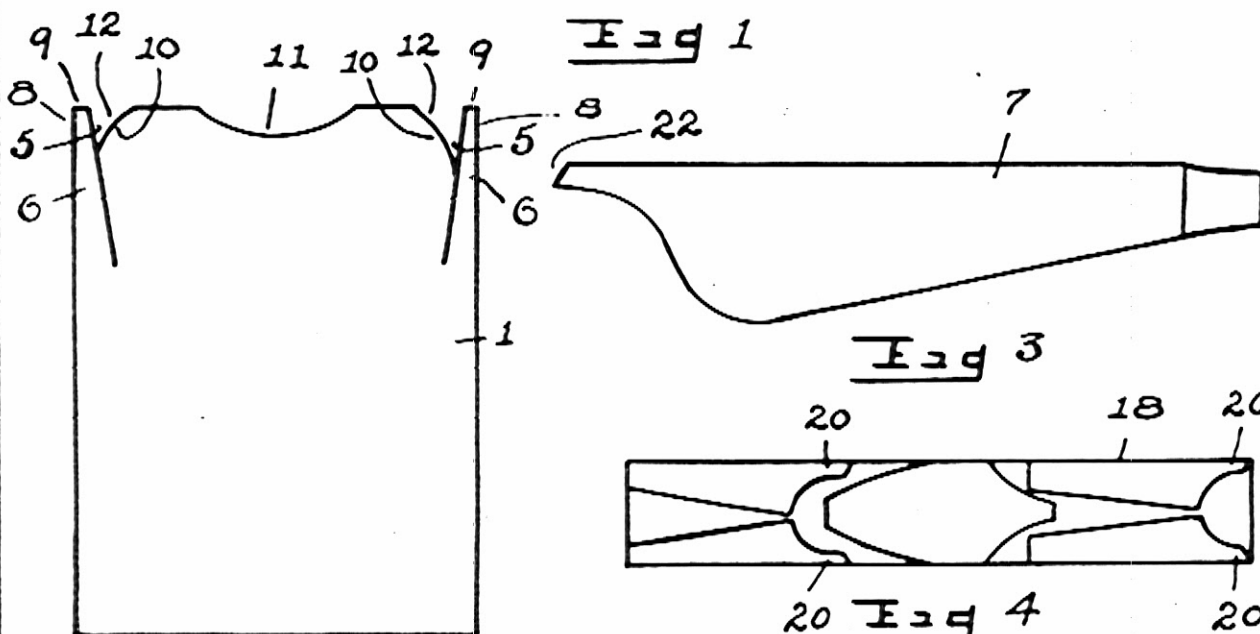


FIG 2

FIG 3

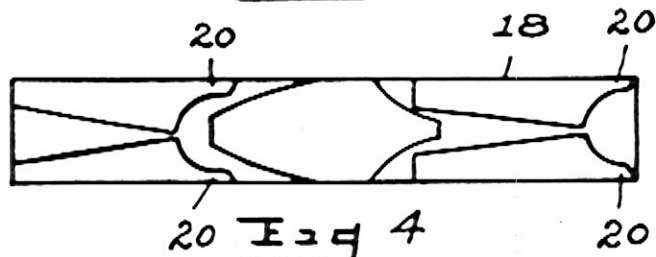


FIG 4

Inventor

John T. Shea
Thomas L. Wilder

By

Attorney

61

Mailed Mar 8 1943

Department of Commerce
UNITED STATES PATENT OFFICE
Richmond

On Appeal Before the Board of Appeal.

In re application of John T. Shea

Serial No. 361,445

Filed October 16, 1940

For: Sweat Shirt

Examiner's Statement.

This is an appeal taken from the final rejection of claims 3-6, inclusive. No other claims appear in the case.

The claims read as follows:

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

4. In a sweat shirt, a neck portion made partially of lastex, whereby to hold said neck portion in normal position, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part, shoulder pieces formed on said sleeves seamed to said body part and to said neck portion, whereby to form a seamless shoulder and to allow for transverse

stretch across the shoulder but not a longitudinal stretch to prevent sagging, and said body portion having a lower band made partially of lastex, whereby to aid in holding the lower part of the garment tightly to the wearer.

5. In a sweat shirt, a neck portion made of a stretchable material, a body portion made of tubular knitted fabric, tongues integral with said tubular fabric by slitting the lateral edges of said body portions, sleeves made of separate material seamed to said body portion and to
62 said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body part and, shoulder pieces formed on said sleeves seamed to said body part and said neck portion, whereby to form a seamless shoulder and to allow for transverse stretch across the shoulder but not a longitudinal stretch to prevent sagging.

6. In a sweat shirt, a crew collar made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said tubular fabric made by cutting the lateral edges of said body portions that taper towards the bottom of said cuts, sleeves made of separate material seamed to said body portion and to said tongue portions, whereby to form a seamless under portion for said sleeves and to allow freedom of movement relative to said body portion, shoulder pieces formed by extending said sleeves, and said shoulder pieces seamed to said body portion and to said neck portion to form a seamless shoulder and to allow for transverse stretch across the shoulder portion for the comfort of the wearer and to prevent longitudinal stretch, whereby to eliminate sagging of the garment at the arm holes.

The application relates to knitted sweat shirts. Such garments are often regarded as sweaters.

The body part of the garment is made from a length of tubular knit fabric and as positioned on the wearer the wales extend vertically. The maximum stretch of such material is transverse to the wales and is therefore circum-

ferentially of the wearer. The tube has open ends and the upper end is cut or shaped to fit the neck. Applicant flattens the tube and makes downward cuts from the upper corners thereof and through both layers. The cuts are directed slightly inwardly and terminate at a point corresponding to a wearer's armpits. The upper corners defined by the cuts are tongue members and each member is secured to a sleeve at the under side. Each tongue forms a part of the sleeve and spaces the opposite edges of the sleeve for a short distance toward the wrist. The remainder of the sleeve is held in tubular form by simply sewing together the opposite complementary edges. The

63 garment is therefore rendered free from any seam at the armpits. The upper side of the sleeve is extended in length to form a shoulder covering portion and terminates at the neck. The front and back upper edges of the body part are sewed to the corresponding edges of the sleeve extension. The sleeve is so cut from the knit goods that the wales extend in the direction of the sleeve length. The garment therefore presents a sleeve and shoulder region which will stretch at right angles to that of the body member and make a more comfortable garment at the shoulder.

The references relied upon are:

Huels	1,288,417	Dec. 17, 1918
Redmond	2,035,377	Mar. 24, 1936

The Huels garment is made with a knitted tubular body part having the wales extending vertically, and with sleeves having the wales longitudinally thereof. The upper side of the sleeve members is extended to the neck opening and forms a part of the shoulder.

An underarm insert is shown by Redmond. The knitted tubular blank is cut at its sides forming a triangular flap on each side. The flap is inserted into and forms a part of the sleeve and does away with an underarm seam.

Claims 3-6, inclusive, were rejected on Huels in view of Redmond. Applicant's attention was called to Fig. 5 of Huels wherein each sleeve is disclosed as a separate member. These sleeves differ from Huels' Fig. 2 in that the part forming a back yoke member is omitted. It appears clear that Huels fully teaches applicant's extension of the sleeve to form a shoulder portion. It was held also that it would not require invention to form under arm flaps on the tubular body part of the Huels garment in view of Redmond. Fig. 8 of Redmond is relied upon for the flaps.

64 It appears to be unpatentable to provide the Huels garment with the underarm construction of Redmond.

The claims also make reference to the neck and waist band as containing "lastex" and being of an elastic nature. The references to Crossingham and Martin were cited to applicant merely to show that elastic necks and waistlines are known in the sweater art.

For the foregoing reasons it is thought that the claims in this case were properly finally rejected.

Respectfully submitted,

C. E. LUSBY,
Examiner, Division 24.

* * * * *

74

Mailed Sep 9 1943

Appeal No. 46,157

Hearing: July 27, 1943

IN THE UNITED STATES PATENT OFFICE.

Before the Board of Appeals.

Ex Parte John T. Shea.

Application for Patent filed October 16, 1940, Serial No. 361,445. Sweat Shirt.

Mr. Thomas L. Wilder for appellant.

This is an appeal from the action of the Primary Examiner finally rejecting claims 3 to 6, inclusive.

Claim 3 is illustrative and reads as follows:

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

The references relied upon are:

Huels	1,288,417	Dec. 17, 1918
Redmond	2,035,377	Mar. 24, 1936

While the references do not relate to sweat shirts, the garments of the prior art are made from tubular knitted fabric and Redmond provides extensions 26 for the same purpose as applicant provides extensions 6.

Huels shows a similar garment with the shoulder piece-sleeve construction stated in the claims. We agree

with the examiner that there is no invention in combining these two features in a single garment.

The claims also refer to a neck portion made partially of lastex or stretchable material and a body portion having a lower band made partially of lastex. The examiner refers to these last named features as well known in the sweater art.

The applicant's main objection to the rejection is that while the details may be old per se, the combination as claimed is not shown in a single reference. It is our view nevertheless that the combination is obviously a matter of choice with only the obvious effects. If the lastex were used at certain points, these areas would naturally be elastic and obviously there is no invention in making a selected portion of a garment elastic.

The decision of the examiner is affirmed.

BOARD OF APPEALS

J. W. CLIFT

Examiner-in-Chief

F. J. PORTER

Examiner-in-Chief

E. F. KLINGE

Examiner-in-Chief

September 9, 1943

Mr. Thomas L. Wilder
302 Mayro Bldg.
Utica, N. Y.

* * * * *

Defendant's Exhibit No. 1

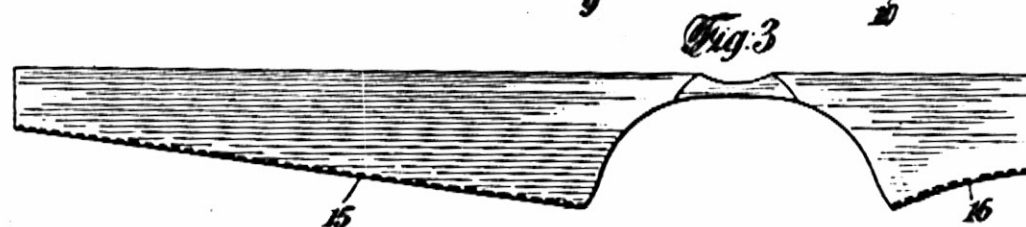
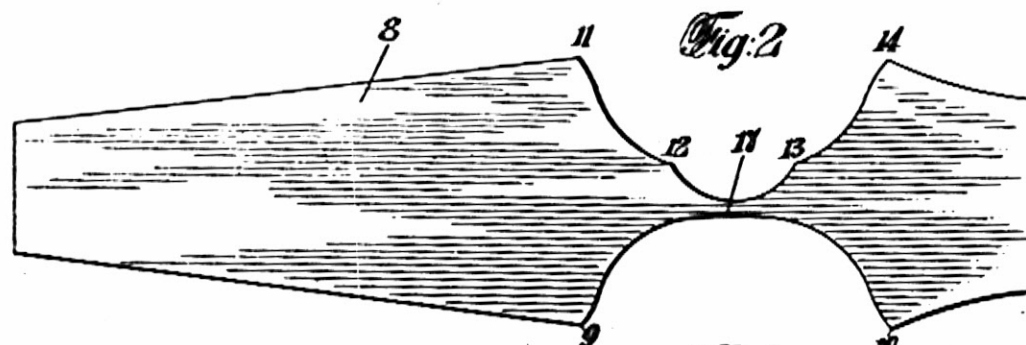
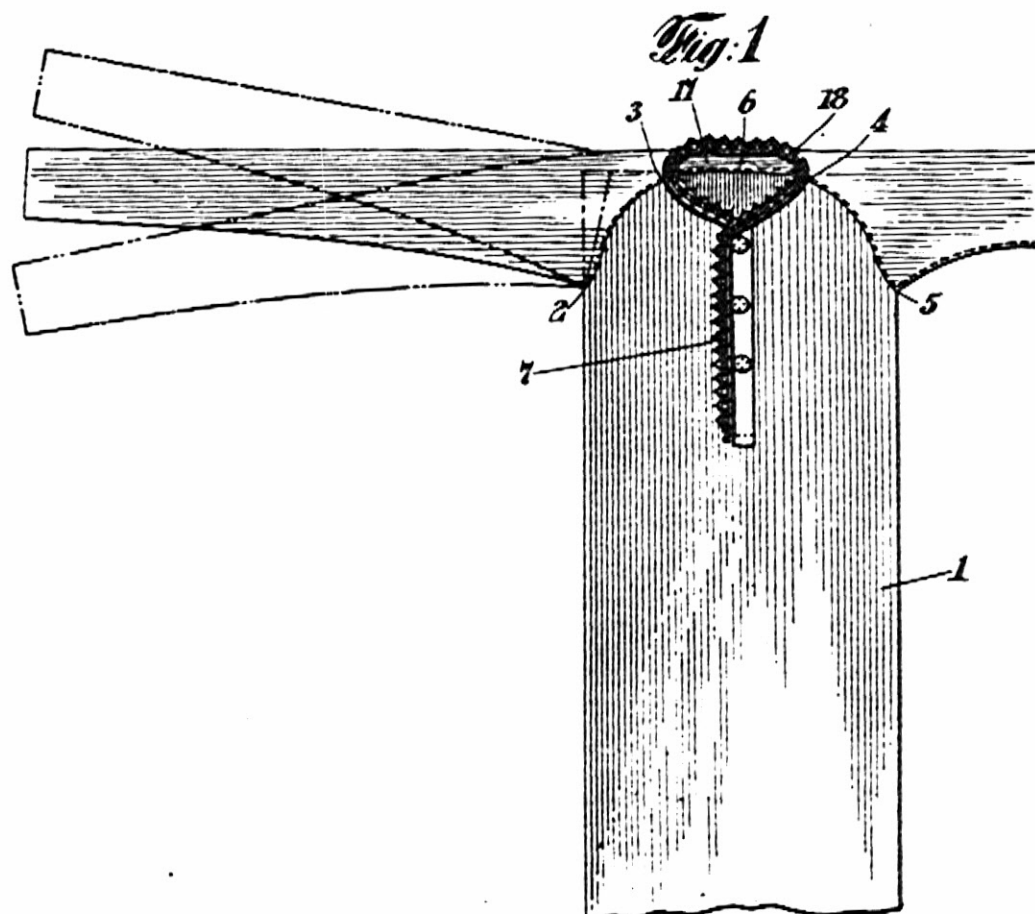
R. HUELS.
UNDERGARMENT.

APPLICATION FILED NOV. 24, 1914.

Patented Dec. 17, 1918.

2 SHEETS—SHEET 1.

1,288,417.



WITNESSES

John E. Prager
A. Worden Gibbs

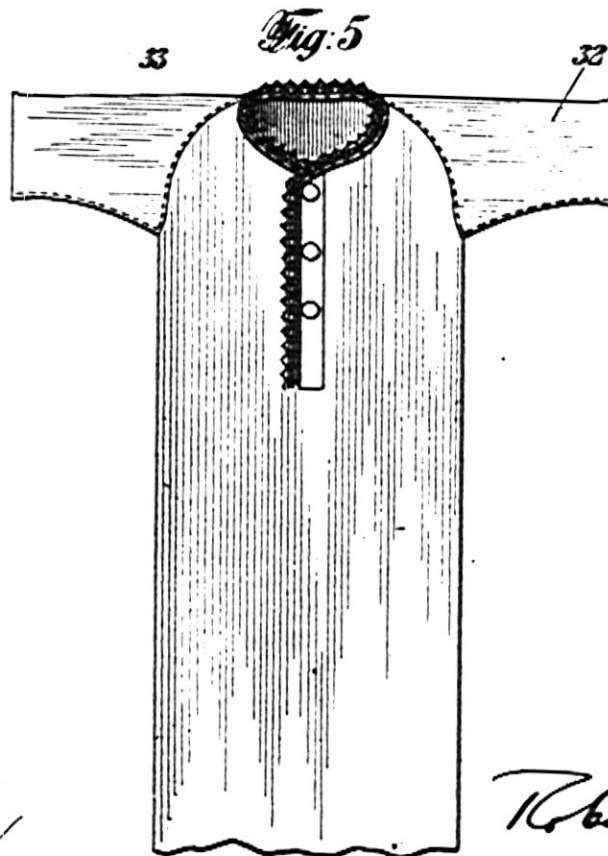
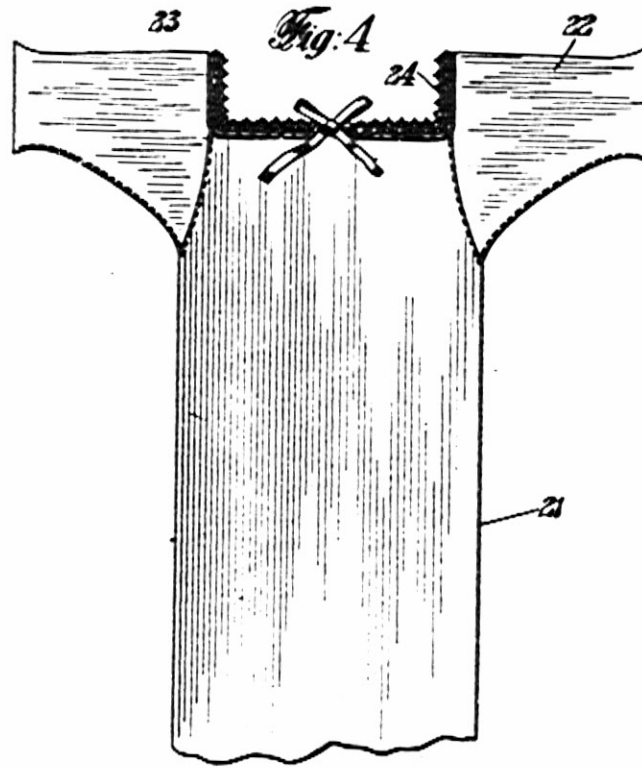
INVENTOR

Robert Huels
Shippin Dendly Smith
his ATTORNEYS

R. HUELS.
 UNDERGARMENT.
 APPLICATION FILED NOV. 24, 1914.

1,288,417.

Patented Dec. 17, 1918.
 2 SHEETS—SHEET 2.



WITNESSES
John E. Prager
A. Worden Gibbs

Robert Huebs INVENTOR
 BY *Shaffer Bentz, Attys*
 his ATTORNEYS.

UNITED STATES PATENT OFFICE

ROBERT HUELS, OF BROOKLYN, NEW YORK, ASSIGNOR TO STANDARD KNITTING MILLS COMPANY, A CORPORATION OF NEW YORK.

UNDERGARMENT.

1,288,417.

Specification of Letters Patent.

Patented Dec. 17, 1918.

Application filed November 24, 1914. Serial No. 873,682.

To all whom it may concern:

Be it known that I, ROBERT HUELS, a citizen of the United States, residing in the borough of Brooklyn, in the city and State of New York, have invented certain new and useful Improvements in Undergarments, of which the following is a full, clear, and complete description.

My invention relates to undergarments such as undershirts, undervests and union suits, and is applicable equally to such garments whether they are to be worn by men or by women.

The object of my invention is to provide an undergarment which can be easily and cheaply manufactured, and which will afford the greatest possible comfort to the wearer.

Heretofore, in order to give elasticity to the shoulders of the garment, use has been made of the familiar elastic shoulder, or of the newer inset shoulder. Both of these garments have the disadvantage that they are difficult and expensive to manufacture and also that they require a number of seams, and are therefore not comfortable.

By my invention I obviate all of these disadvantages and at the same time increase the elasticity of the garment at the shoulders. I accomplish this by making use of the fact that knitted fabric is very much more elastic in the direction transverse to the ribbing than it is in the direction of the ribbing. I therefore make the body of the garment of vertically ribbed material so that it will fit snugly around the body and yield sufficiently in a horizontal direction, and I make the shoulders of horizontally ribbed material thus giving to the garment the required vertical elasticity. I also combine the shoulders and arms in such a manner that the number of seams required is greatly reduced, thus reducing the cost of manufacture and adding to the comfort of the garment.

In the accompanying drawing—

Figure 1 is a front view of my improved garment.

Fig. 2 shows a development of the yoke and sleeve portion of my garment.

Fig. 3 shows this yoke and sleeve portion in the form in which it is attached to the body portion of the garment.

Figs. 4 and 5 are front views of garments embodying my invention but differing slightly from the garment shown in Fig. 1.

Referring to Fig. 1, 1 designates the body

portion of the garment which may be made from a tube of knitted material or in any other suitable way. The top of the body portion is cut, front and back, along a curved line such as that indicated at 2, 3, 4, 5, thus forming the two sleeve openings, and the piece 3, 4, 6 is cut out of the front to provide the neck opening, communicating with the sleeve openings. The front of the garment is also slit vertically from the neck opening to provide the customary chest opening 7.

The yoke and sleeve portion 8 is cut from a single piece of material, as shown in Fig. 2. The curved edge 9, 10, of this portion is sewed to the curved edge 2, 3, 4, 5, of the back of the body portion, and the curved edges 11, 12 and 13, 14 are sewed to the edges 2, 3 and 4, 5, respectively of the front of the body portion. The sleeves are completed by the seams 15, 16, and the portion 17 forms the yoke at the back of the garment. Thus it is seen that the sleeve portions extend over the shoulders and to the neck opening so that they form not only the arms but also the shoulders of the garment, and in this particular embodiment they also form the yoke.

The sewing of the braid 18 around the neck opening prevents this opening from stretching out of shape, but does not interfere with the elasticity of the garment at the shoulders.

It is evident that the garment shown in Fig. 1 need not be cut exactly as described. For instance, the seams 2, 3 and 4, 5 need not be curved, but may be angular as indicated by the broken lines, and so arranged as to give the desired slope to the shoulders and sleeves.

In Fig. 4, I have shown my invention applied to a garment of the "Dutch neck" type. The sleeves 22, 23, are made of two separate pieces of material and extend to the neck opening of the garment so that these sleeve portions form also the shoulders of the garment. The braid 24 sewed around the neck opening and the upper portions of the arms serve to keep the garment in shape at this point.

The garment shown in Fig. 5 is very similar to that shown in Fig. 1, and a detailed description of it will therefore be omitted. It differs from Fig. 1 in that the sleeves 32, 33, are made of two separate pieces of material and that these sleeve portions do not extend across the back to form a yoke.

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In each of the embodiments of my invention shown herein, the body portion of the garment is ribbed vertically, while the sleeve and shoulder portions are ribbed longitudinally of the sleeves, or horizontally at the shoulders. The vertical ribbing of the body portion gives the snug fit and the necessary horizontal elasticity, and at the same time prevents undue vertical stretching of the garment. The horizontal ribbing at the shoulders, on the other hand, gives the necessary vertical elasticity to the garment and permits freedom of movement of the body and shoulders of the wearer. This vertical elasticity is of special importance when my invention is applied to union garments since considerable elasticity between the shoulders and crotch is essential to comfort. It will be noted that the manufacture of my improved garments is very simple. For example, in the manufacture of the garment shown in Fig. 1, but a single continuous seam is required to secure the arm and shoulder portion to the body portion of the garment, as compared with the four seams (one along each shoulder and one around each armhole) necessary at the shoulders and armholes of the ordinary garment. In the garments illustrated in Figs. 4 and 5, two short seams replace the single continuous seam of the garment shown in Fig. 1.

This reduction in the number of seams, effected by my invention greatly reduces the labor and cost of manufacture and at the same time adds to the comfort of the garment.

While I have shown herein several embodiments of my invention, I have not attempted to show all the possible embodiments thereof, and it is to be understood that many changes may be made in the garments shown without departing from the spirit of my invention.

What I claim is:

An undergarment comprising a vertically ribbed tubular body portion possessing horizontal elasticity throughout its entire length cut at the top in a curved line, both front and back, to form the neck and sleeve openings, a unitary sleeve portion secured to said body portion by a single continuous seam extending substantially around the neck and sleeve openings constituting the yoke, shoulders and sleeves of the garment, said sleeve portion being longitudinally ribbed so as to impart vertical elasticity thereto without detracting from the horizontal elasticity of the body portion.

ROBERT HUELS.

Witnesses:

WALTER S. JONES,
WM. M. EARL.

Copies of this patent may be obtained for five cents each, by addressing the "Commissioner of Patents, Washington, D. C."

March 24, 1936.

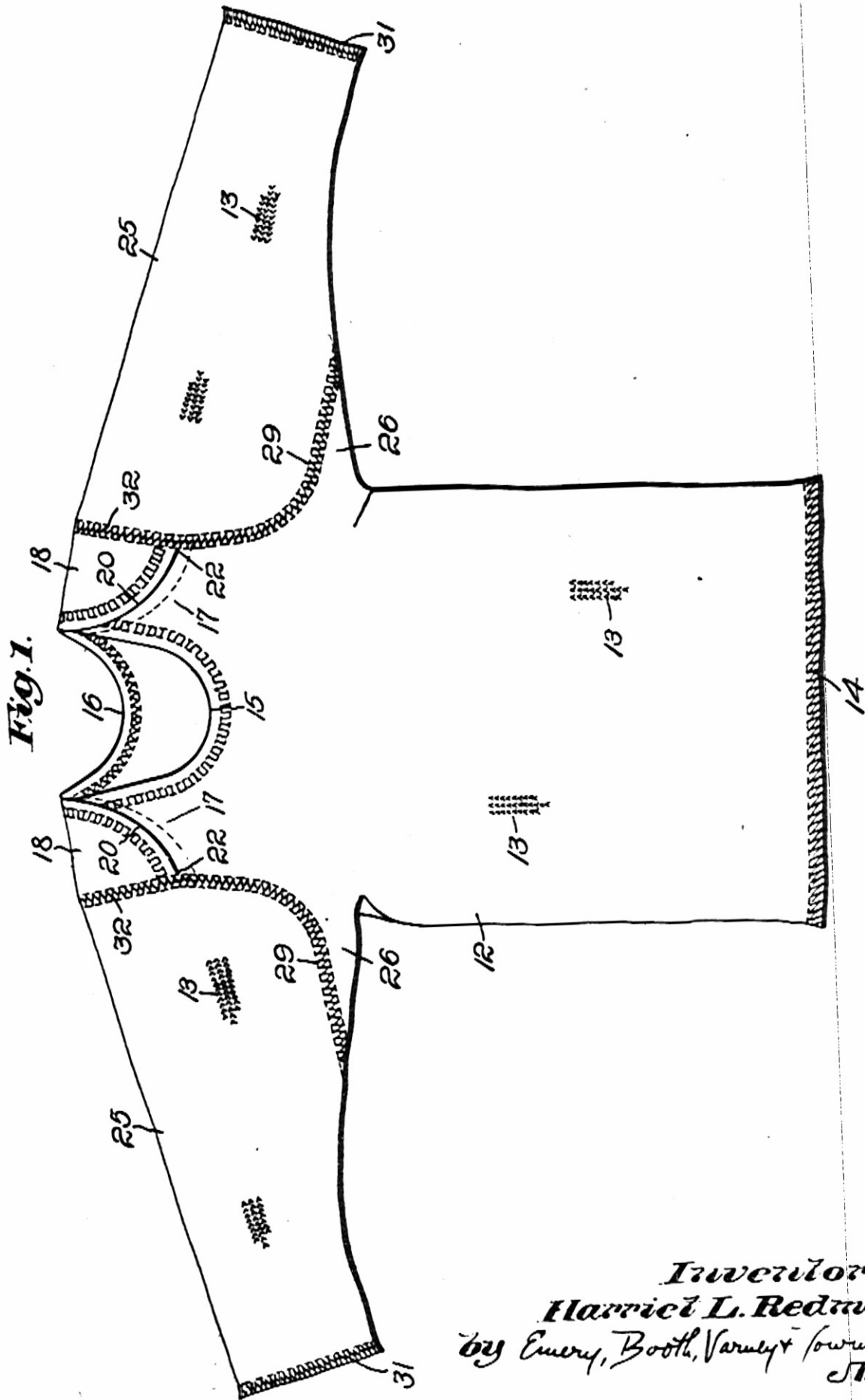
H. L. REDMOND

2,035,377

SHOULDER SUPPORTED GARMENT

Filed Jan. 27, 1934

5 Sheets-Sheet 1



Inventor:
Harriet L. Redmond
by Emory, Booth, Varney & Townsend
Attys

March 24, 1936.

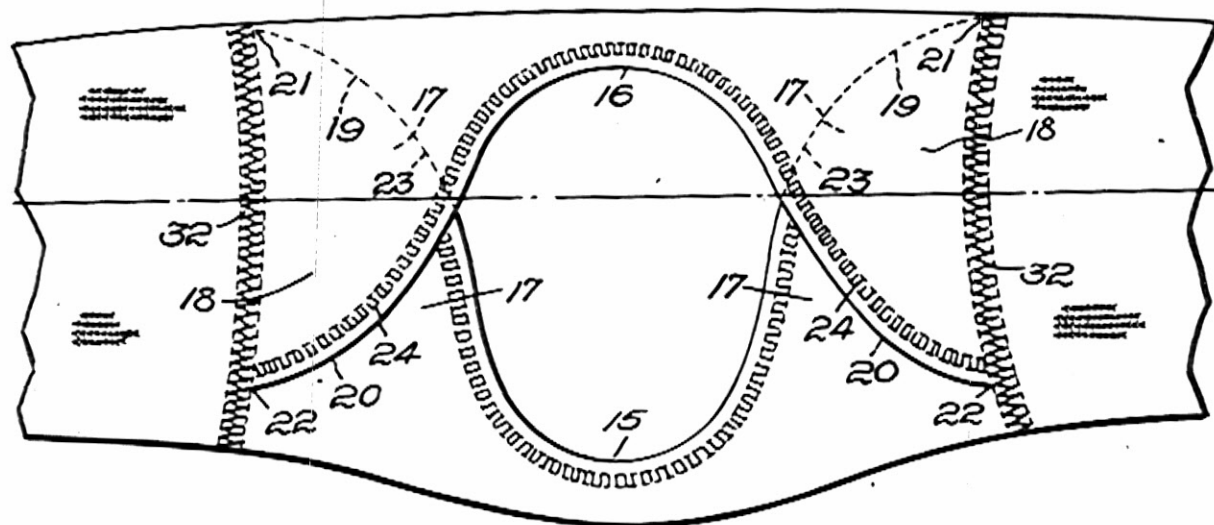
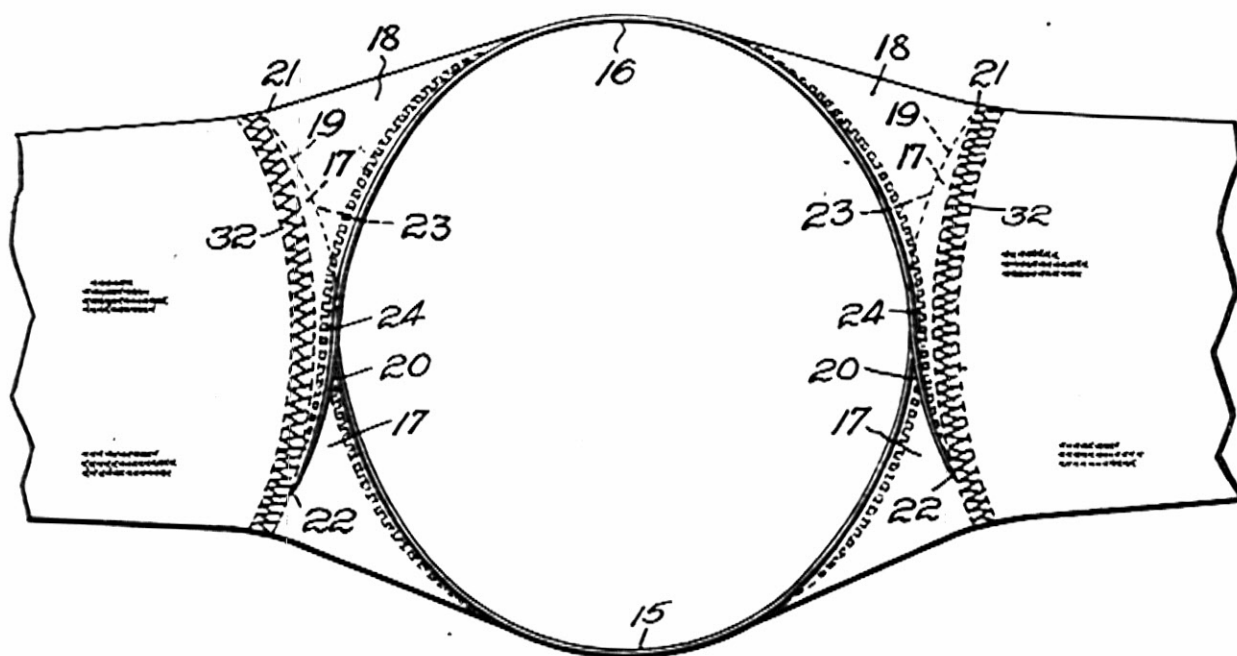
H. L. REDMOND

2,035,377

SHOULDER SUPPORTED GARMENT

Filed Jan. 27, 1934

5 Sheets-Sheet 2

Fig. 2.*Fig. 3.*

Inventor:
Harriet L. Redmond
by Emery, Booth, Varney & Townsend
Attys

March 24, 1936.

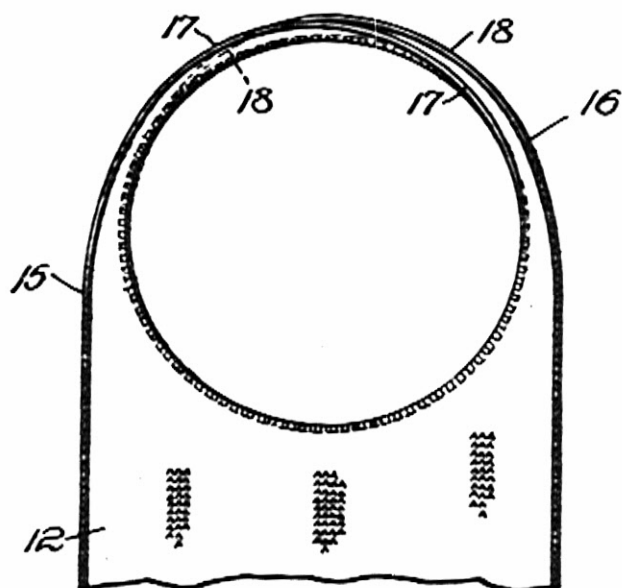
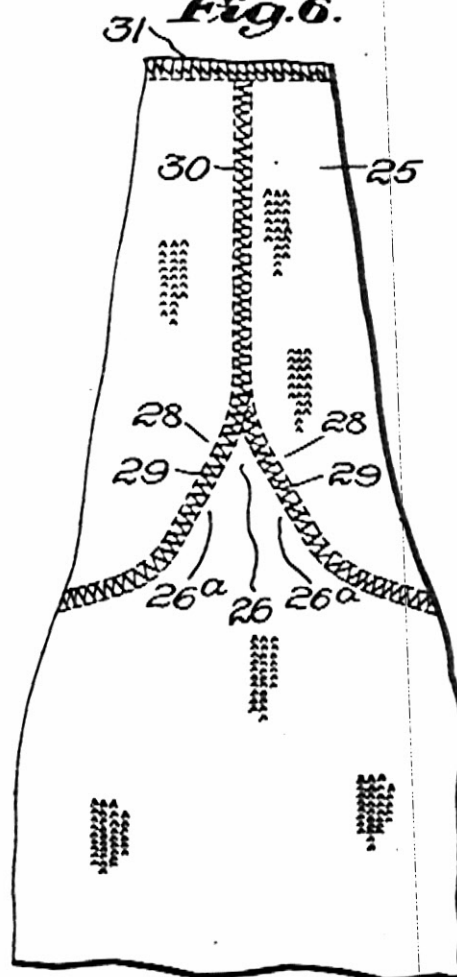
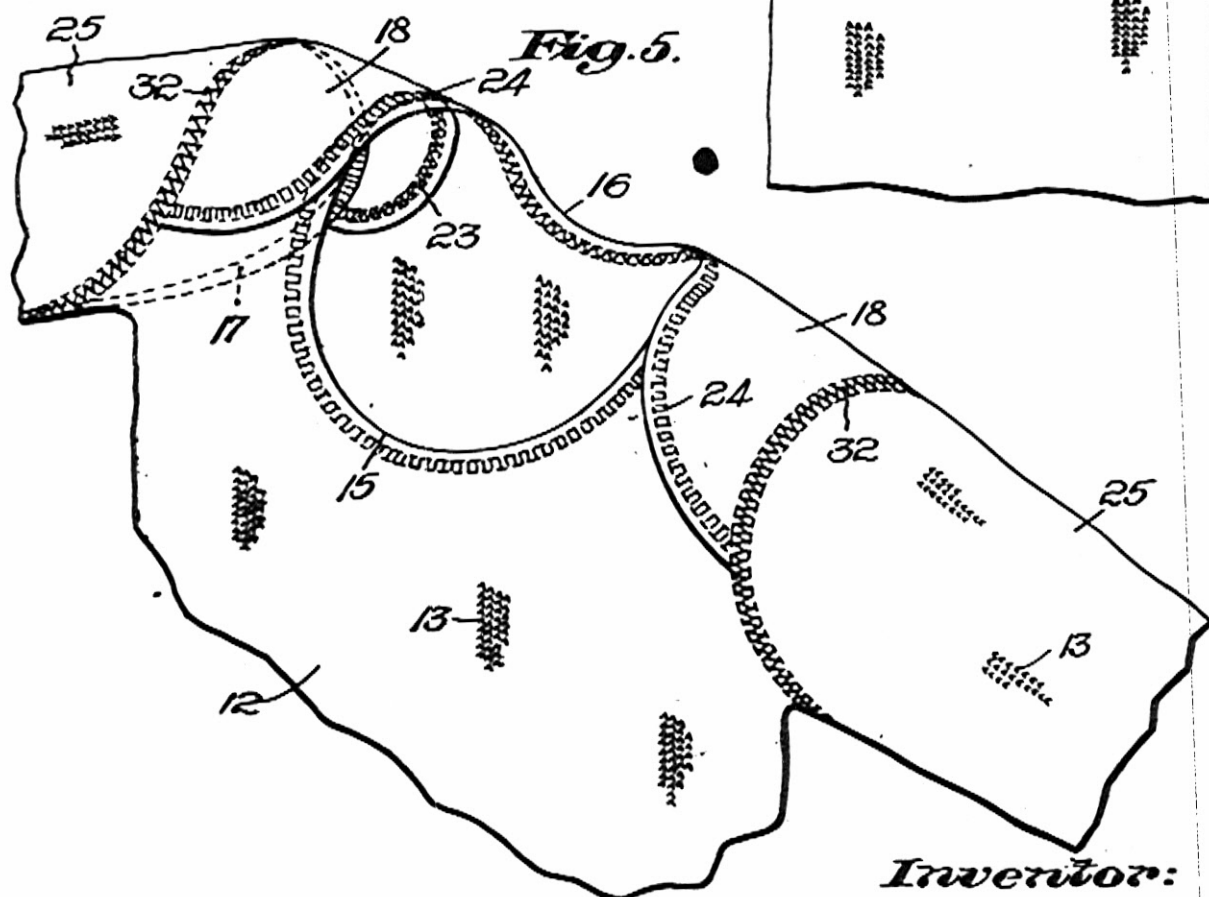
H. L. REDMOND

2,035,377

SHOULDER SUPPORTED GARMENT

Filed Jan. 27, 1934

5 Sheets-Sheet 3

Fig. 4.*Fig. 6.**Fig. 5.*

Inventor:
Harriet L. Redmond
by Emery, Booth, Varney & Townsend
Attys

March 24, 1936.

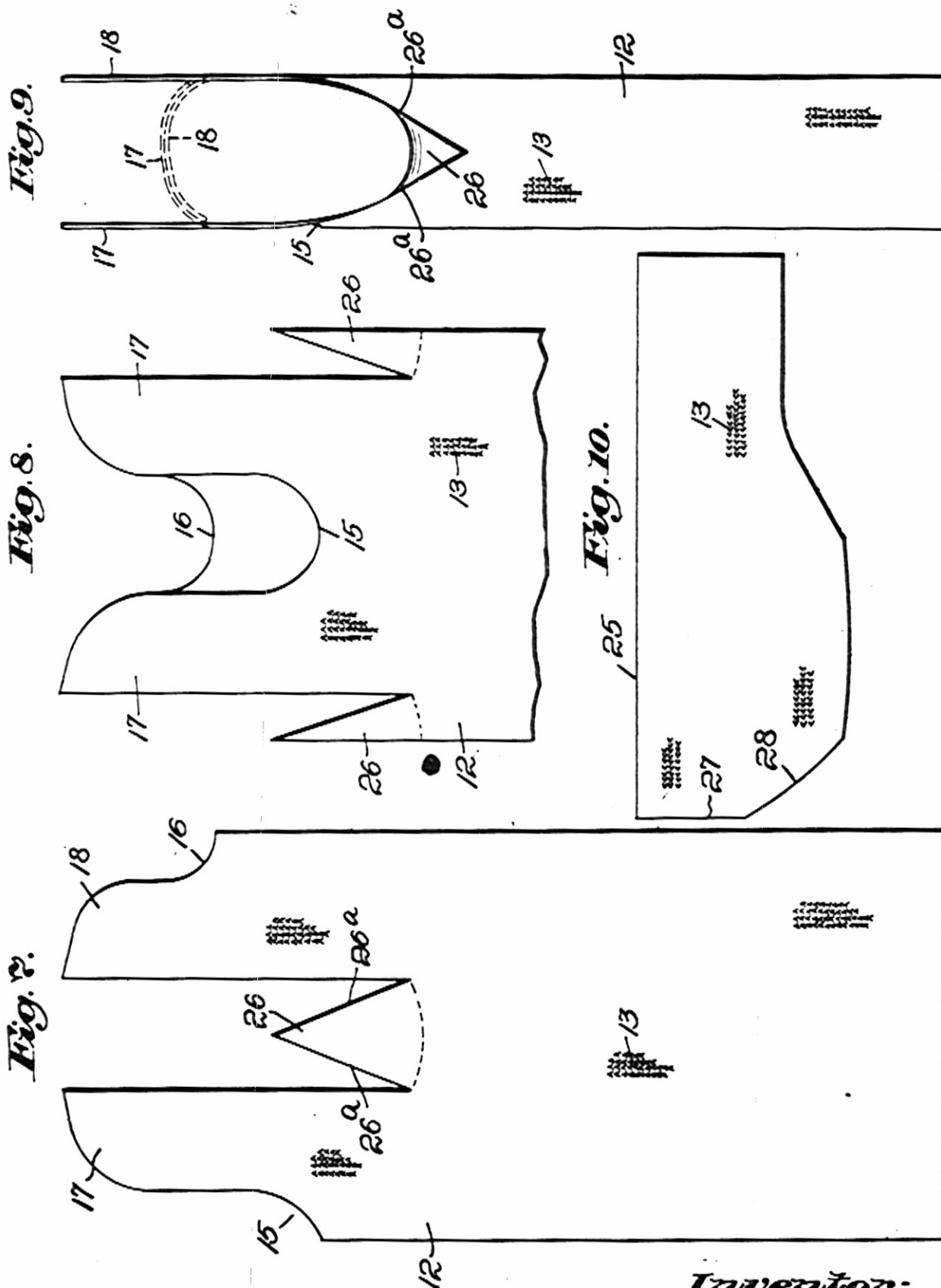
H. L. REDMOND

2,035,377

SHOULDER SUPPORTED GARMENT

Filed Jan. 27, 1934

5 Sheets-Sheet 4



Inventor:
Harriet L. Redmond
 by *Emery, Booth, Varnely & Townsend*
Attys

March 24, 1936.

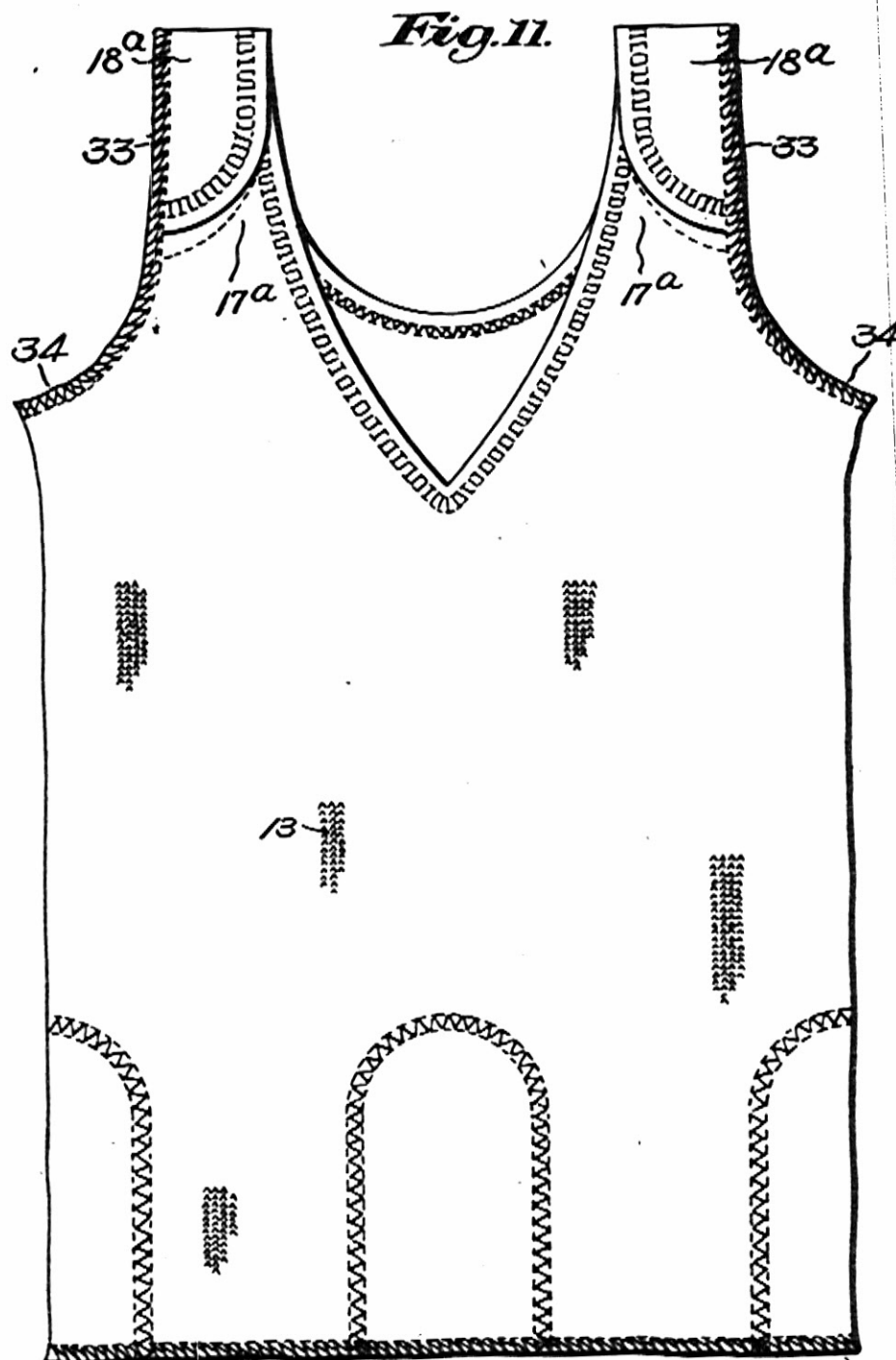
H. L. REDMOND

2,035,377

SHOULDER SUPPORTED GARMENT

Filed Jan. 27, 1934

5 Sheets-Sheet 5



Inventor:
Harriet L. Redmond.
by Emery, Booth, Varney & Townsend
Attys

UNITED STATES PATENT OFFICE

2,035,377

SHOULDER-SUPPORTED GARMENT

Harriet L. Redmond, Needham, Mass., assignor
to The William Carter Company, Needham
Heights, Mass., a corporation of Massachusetts

Application January 27, 1934, Serial No. 708,613

4 Claims. (Cl. 2-111)

My present invention relates to shoulder-supported garments and more particularly aims to provide improved and simplified constructions for and methods of making such garments, including a novel shoulder and neck portion or closure which is self-adjusting and does not require the use of fastening means such as ties or tapes, pins, buttons, snap fasteners, or the like.

In the drawings, illustrating by way of example certain embodiments of my invention and showing exemplary means for practising the methods thereof,

Fig. 1 is a front view of one form of shoulder-supported garment, in this instance a shirt, embodying the invention, the garment being laid out substantially flat;

Fig. 2 is a top view of the shoulder and neck portions of the garment of Fig. 1, showing the same as viewed from above substantially in its position as worn or as when said portions are positioned flatwise;

Fig. 3 is a view corresponding to Fig. 2 but illustrating the position assumed by the parts as when the garment is being put on or removed, either over the head or over the feet of the wearer;

Fig. 4 is a vertical section through a shoulder portion of the garment, looking outwardly;

Fig. 5 is a perspective of the upper portion of the garment as worn;

Fig. 6 is a view of the under side of one of the sleeves, the sleeve being raised or extended;

Figs. 7, 8 and 9 showing in successive stages a blank from which the main portions of the garment of Figs. 1 to 6 may be formed;

Fig. 10 illustrates a sleeve blank for said garment; and

Fig. 11 is a front view of another form of garment also embodying my invention, namely, an infant's so-called band.

Referring first to Figs. 1 to 10, the garment there illustrated for the purposes of description is an infant's shirt of undershirt, in connection with which the invention is of particular utility. It comprises a main or body portion 12 having front and back sections, formed in this instance of a tubular knitted fabric in which the wales 13 preferably extend vertically, affording greater elasticity in the direction transversely of the garment. The bottom of the shirt is suitably finished, as by an elastic seaming 14. While I am here illustrating and describing the invention as embodied in a child's or infant's shirt, it will be understood that it is not limited in its use to a particular type of shoulder-supported garment but is also applicable in connection with other forms of garment and in garments formed of materials other than knitted fabric, including both outer and under garments and those having attached lower portions, such as union undergarments, and also in connection with garments which are not permanently closed but may have front or other opening provisions.

At its upper front portion the fabric of the garment body is shaped centrally as at 15 to provide the front portion of the neck aperture, and the back upper central portion is correspondingly formed as at 16. The general configuration of these neck portions may be varied as desired, to afford the various neck styles as preferred, such as the square, the V-shaped or the rounded forms, and the depth of the openings may be varied. In some instances they may be the same at both front and back or, as generally preferable, the front portion of the neck aperture may be somewhat lower than at the back, as illustrated.

In accordance with my invention one or both of the over-shoulder portions or shoulder straps comprised in the neck closure are formed of a plurality of overlapping members, extensions or strap-like elements 17 and 18 extending respectively from the upper portions of the front and back sections of the main body portion 12.

As clearly seen in Figs. 2, 4 and 5, and as also will readily be understood in connection with the illustrations of the fabric blank in Figs. 7 to 9, the shoulder parts 17 for the garment front are of sufficient longitudinal extent to pass upwardly over the shoulders and rearwardly or downwardly toward the back. Similarly the shoulder parts 18 associated with the upper rear portion of the garment are shaped and proportioned to extend upwardly over the shoulders and forwardly and downwardly toward the front. That is, both the front and the rear shoulder and elements or strap forming members 17 and 18 extend, from the main portions of the garment to which they are attached, upwardly and either forwardly or rearwardly, preferably to substantially the same extent, across and beyond the top central cross-shoulder line indicated by the dot-and-dash line in Fig. 2 and which corresponds approximately to the top lines across the shoulders as seen in Fig. 1.

The inner side portions or edges of the shoulder extensions 17 and 18 are preferably but not necessarily inclined or rounded, as indicated at 19 and 20 respectively (see particularly Fig. 2), from a point at or adjacent the medial cross-

shoulder line referred to, to the outer side portion or edge of said parts, at or near the points indicated by the numerals 21 and 22 respectively.

At least the inner edge portions of the shoulder elements 17 and 18 are left free, being unattached either to each other or otherwise. They are suitably finished along their free portions as by the edge bindings 23 and 24 respectively. The edge bindings 24 for the rear extensions 18 desirably are carried continuously along and about the edge of the rear portion 16 of the neck aperture, merging into each other, while the corresponding edge bindings 23 of the forward extensions 17 are similarly continued and merged together about the edge of the front portion 15 of the neck opening.

Thus it will be seen, particularly with reference to Figs. 2, 3 and 5, that there are continuous formations about the garment neck aperture, from the outer side of one shoulder element to the outer side of the shoulder at the opposite side of the garment. For example, from the point 21 at one side of the garment, there is a continuous line or formation along the inner portion of the strap member 17, continuously around the front of the neck and along the inner free portion of the corresponding strap member 17 at the other side of the garment, and to the outer side of said strap member, at the other point 21. Similarly for the free portions of the rear extensions 18 and the rear neck portion 16 there is a continuous fabric formation and structure line from the point 22 at one side of the garment, along the free portion of the adjacent member 18, around the back of the neck, and along the inner portion of the corresponding member 18 at the other side of the garment, to the other point 22. In the form illustrated the shoulder members 17 which extend from the upper front of the garment underlie the corresponding parts 18 coming from the rear of the garment, see also Fig. 4, but it will be understood that this arrangement may be reversed, and that either the front or the back elements 17 or 18 may be underneath.

The described neck closure and shoulder construction is applicable to garments of a type having sleeves or to sleeveless garments. The infant's shirt of Figs. 1 to 10 is provided with sleeves, each indicated as a whole by the numeral 25, and in connection therewith and with the described neck formation I have devised a novel construction which avoids under-arm seams adjacent the body. For this purpose the main portion 12 of the garment is formed with integral under-arm extensions 26, preferably of the generally tapered form seen in Fig. 6 and one-half portion of which is apparent in Fig. 1 and also in connection with the blank, Fig. 8.

A blank for one of the sleeves is illustrated in Fig. 10. Each such blank has an end portion 27 for attachment to the shoulder portions of the garment across the top of the arms, and with inclined portions 28, one only of which is seen in the doubled form of the blank as in Fig. 10, in which the upper line 27^a is a fold line. The two inclined portions 28 of the sleeve blank are respectively attached as by seaming 29 along the corresponding inclined sides 26^a, 26^b of the under-arm extensions 26. The remaining under portion of the sleeves, beginning with the peak of the under-arm extension 26, at a point well away from the body, are seamed together as along the line 30, Fig. 6. The outer ends of the sleeves may be provided with a cuff or with any

suitable finishing formation such as the elastic seaming 31.

Referring again to Figs. 1, 2 and 5, the upper inner end portions 27 of the sleeves are secured to the outer side edge portions of the shoulder elements 17 and 18, as indicated by the lines of flatlock or other seaming 32, 32 in said figures. From the foregoing description it will be understood that said shoulder members, extensions or strap elements 17 and 18 are secured only along their said outer edges, herein by said seam lines 32, and that otherwise, aside from their attachment to the main body portions from which they originate, they remain in free overlapping relation one upon another over the shoulders.

In the normal position of the neck closure, as in Figs. 1, 2 and 5, the garment is closed about the base of the wearer's neck, and this entirely without the necessary provision of special fastening means, whether tapes, pins, buttons, or other type. By reason of the described construction there is an inherent automatic tendency for the neck parts to remain in said closing position, and in addition they also naturally and automatically tend to hold their desired position across the wearer's shoulders, rather than to slip down over the arms as has been the tendency in prior garments of the shoulder-supported type. This is largely due to the described shoulder construction with its diagonally crossing edge lines at the tops of its front and rear portions. By reference to Fig. 2, for example, it will be seen that there is a continuous fabric formation or structural line extending diagonally, say from the outer point of attachment 22 for the shoulder element 18 at one side of the garment, diagonally across to the other side of the garment and to the corresponding member 18 at said other garment side. Hence, any down pull or other strain at one side of the garment has a diagonally effective component which is transferred across to a shoulder portion at the other side of the garment and tends to draw the latter inwardly toward the wearer's neck. Due to these crossing neck lines and the overlapping shoulder parts and the manner in which the strain is transmitted and distributed from one side to the other, the action is to draw the opposing shoulder and neck portions inwardly toward each other, keeping them up in place.

But despite the closure thus automatically afforded for the neck and shoulder portions of the garment, the garment neck and upper portion is at all times free for opening to the full extent necessary for putting on or removing the garment either over the head or over the feet of the wearer. The manner of opening is illustrated in Fig. 3 in which it may be assumed that the garment is being slipped down over the infant's head or is being brought up about its body. Because of the free arrangement of the inner portions of the overlapping shoulder members, they may be turned or opened to afford an opening having substantially the full width of the distance between the secured outer portions of said members, that is, viewing Figs. 2 and 3, substantially the full width between the seam lines 32. Where the garment is of a knitted fabric as illustrated, and with the knitting wales extending vertically, the degree of opening afforded is still further enhanced by reason of the transverse stretch inherent in the knitted fabric. It will be understood, however, that my invention is not confined to the use of knitted fabric but may be embodied in garments formed of woven or other material.

One method of forming a garment embodying

the described invention is illustrated in Figs. 7, 8 and 9, in connection with a tubular fabric blank. As an initial step the tubular fabric is laid out flatwise as indicated in said figures, the direction of the knitting wales being indicated as at 13. It will be understood that there are two superposed thicknesses of fabric in each blank, and if desired a plurality of similar tubular fabric blanks may be superposed for simultaneous cutting. The blank is cut to provide the front shoulder straps or extensions 17, the rear extensions or shoulder straps 18, and the intermediate wedge-like under-arm extensions 26. During such cutting the blank is folded along what corresponds to the front and rear vertical median lines rather than along the side vertical median lines, since the lower portions 15 and 16 of the neck openings are in this instance made of different depths at the front and the rear. In Fig. 8 the cut-out blank of Fig. 7 is illustrated in its condition as when folded flat along the side median lines. In other words, the fold lines in Fig. 8 are carried around ninety degrees from their position as in Fig. 7. It will be noted in Fig. 8 that the side folds now bisect the under-arm extensions 26 and that the vertical outer side lines of the shoulder parts 17 and 18 are substantially set in from the sides of the blank as a whole; see also Fig. 1 in said connection. Hence, in addition to avoiding the usual under-arm seam, by the provision of the integral under-arm extensions 26, the seams 32 forming the sleeve ends to the shoulder and neck members 17, 18 are brought inwardly of and away from the juncture of the wearer's arms and body, with further avoidance of chafing or binding.

In Fig. 9 I have illustrated the cut blank as if viewed from the side in Fig. 8, but somewhat opened up and with the under-arm extension 26 moved downwardly and outwardly in readiness for attachment of the inclined portions 28 of a sleeve blank. The manner in which the front and rear shoulder extensions 17, 18 are subsequently folded down into mutual overlapping relation, preparatory to seaming along their outer portions only, is illustrated by the dotted lines.

In Fig. 11 I have shown another embodiment of my invention, in this instance in a sleeveless garment, illustrated as a so-called band for an infant. Parts not otherwise referred to may be understood to be the same as in the preceding figures, and similar reference numerals are used for corresponding parts, with the addition of a reference letter. As in the previous figures it will be seen that the front shoulder extensions or straps 17^a and the corresponding rear portions 18^a are disposed flatwise one upon the other similarly and are left free of attachment along their inner portions. Along their outer side portions or edges they are seamed together as indicated by the seam lines 33, 33 which in this case are continued down about the arm opening as at 34. The shoulder portions or straps so formed normally lie closely and snugly about the wearer's neck, and, by reason of the diagonal distribution of the lines of strain as previously described, they tend to remain in supporting position upon the infant's shoulders, with the avoidance of the annoyance and irritation of slipping shoulder straps. As in the case of the sleeved garment or shirt of the previous figures, the garment is normally closed in about the wearer's neck but nevertheless is free to open at its neck portion, for the purposes of putting on or removing the garment, to the full extent of the distance between the outer edges of the shoulder members.

The garment of Fig. 11 may be made by a similar method as described in connection with the blank figures, Figs. 7 to 9, but in this instance the under-arm extensions 26 are not used, the blank being cut across between the strap and neck members 17 and 18, at their bases, as indicated by the dotted lines in Figs. 7 and 8, to form the bottoms of the arm scyes.

My invention, both as to articles and methods, is not limited to the particular embodiments or means herein shown and described, its scope being pointed out in the following claims.

What is claimed is:

1. The method of making a shoulder-supported garment which comprises forming a tubular fabric blank, extending the blank flatwise in folded condition, cutting out one corner portion of the blank to provide front-attached portions of shoulder straps, cutting out the opposite corner portion of the same end of the blank to provide rear-attached portions of shoulder straps, cutting the central portion of the blank inwardly from the border of said end of the blank and between said corner cut-out portions thereby to form the subsequently outer borders of said shoulder straps, opening the tubular blank and reflatting it after shifting the previous side-edge folds 90° circumferentially of the blank, overlapping the ends of one rear-attached and the then adjacent front-attached shoulder strap portion, and seaming together said overlapped portions at their then outer side portions only.

2. An infant's band, of tubular knitted fabric, comprising in combination a body portion including front and back sections, a pair of shoulder-strap-forming elements integral with and extending upwardly from the upper front section and of sufficient length to extend beyond the shoulder line of the wearer and downwardly at the rear, and a corresponding pair of shoulder-strap-forming elements projecting upwardly from the upper back section and of a length to extend across the wearer's shoulder line and downwardly at the front, the fabric being cut away between the members of each such pair of elements to provide a neck opening of a depth extending downwardly approximately to the level of the armpits of the wearer, said elements being relatively narrow as compared with the width of the neck opening and of substantially uniform width throughout the major portion of their extent but having their projecting end portions convexly curved from their inner side edges across to their longer and substantially straight outer side edges, and the outer side edges of said elements being set in from the sides of the garment as a whole, the adjacent front and rear elements at each side of the garment being superposed flatwise in the normal condition of the garment as worn and being secured together along their outer side portions only.

3. In a shoulder supported garment, in combination with a main or body element having front and back portions and a neck opening, oppositely disposed shoulder-strap members at the top of said front and back portions, at each side of the neck opening, said members being seamed together along their outer side edges only and normally lying in flatwise overlapping position one on the other, the inner edges of each pair of said members being continued inwardly and merged into the material of the body element bordering the neck opening, so that down strains on the garment have components effective transversely of the shoulder members and tending to

retain them in place adjacent the wearer's neck, wedge-shaped under-arm extensions at the sides of the body element between the front and back bases of the pairs of shoulder-strap members and
 5 extending outwardly beyond the wearer's arm-pits, and sleeve members having similarly shaped cut-out portions at their inner ends, the sides of said cut-out portions being seamed to the sides of said under-arm extensions by seams which
 10 diverge outwardly and upwardly and are continuous with the seaming along the outer side edges of the shoulder-strap members, whereby under-arm and sleeve strains are distributed divergently over the upper side parts of the garment body element and to relatively movable
 15 portions of the adjacent pair of overlapped shoulder-strap members.

4. A tubular knitted fabric blank for use in forming a shoulder-supported garment, comprising
 20 a main or body element having front and

back portions in flatwise superposed relation in the folded or collapsed condition of the blank, said body element having one upper corner portion cut out to provide front-attached portions of shoulder-strap members, and having the opposite upper corner portion cut out to afford
 5 rear-attached portions of shoulder-strap members, and said blank further having its central portion cut out inwardly from the top edge of the blank and between said corner cut-out portions so as to define the subsequent outer side
 10 edges of the shoulder-strap members, said tubular blank adapted to be opened out and reflat-tened after shifting the previous side-edge folds 90° circumferentially of the blank thereby to
 15 bring one front-attached shoulder-strap member and one back-attached similar member into flatwise overlapping paired position for securing together along their then outer side portions.

HARRIET L. REDMOND. 20

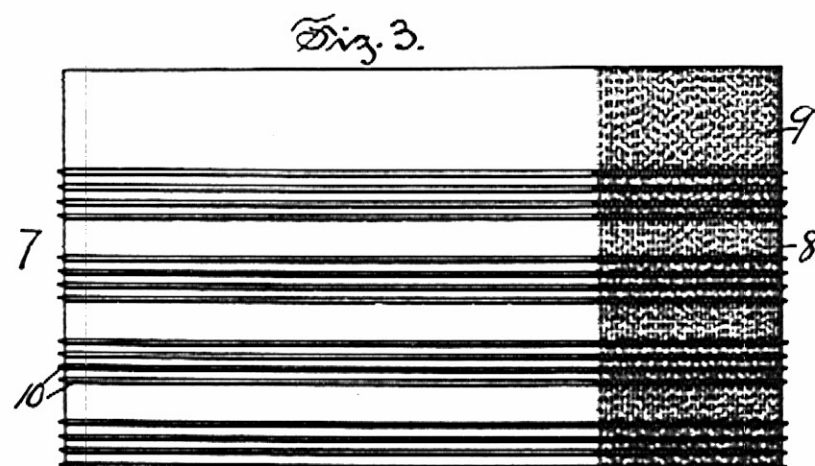
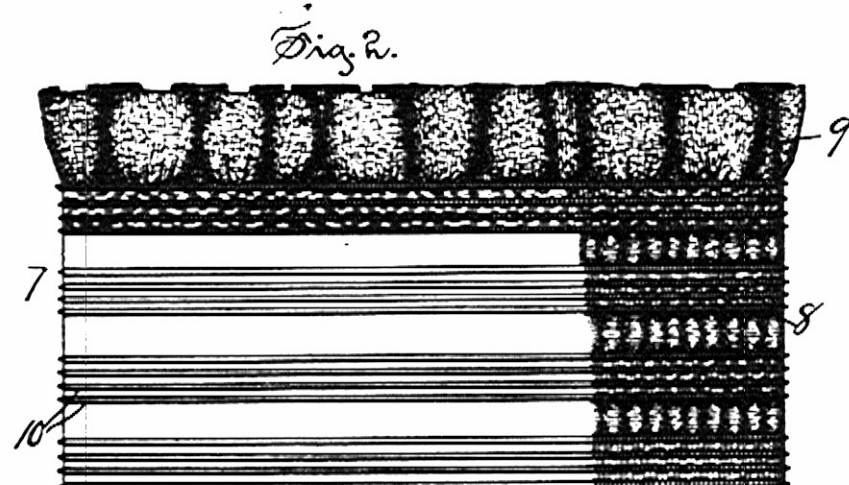
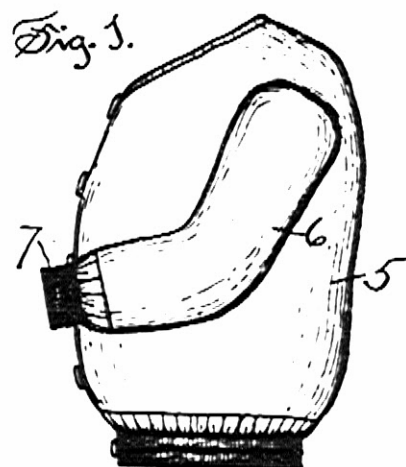
May 15, 1928.

1,669,868

R. C. FAGAN

ELASTIC FABRIC

Filed April 10, 1926



INVENTOR
 Richard C. Fagan.
 by
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UNITED STATES PATENT OFFICE.

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ELASTIC FABRIC.

Application filed April 10, 1926. Serial No. 101,195.

This invention relates to a fabric that is designed for attachment to various parts of garments of various sorts, for the purpose of causing the garment to snugly fit the body or limb, and an object of my invention, among others, is the provision of a fabric that may be readily attached to a garment in a neat and efficient manner and with little trouble and that when so attached will thoroughly effect its purpose.

One form of fabric embodying my invention and in the construction and use of which the objects herein set out, as well as others, may be attained, is illustrated in the accompanying drawings, in which—

Figure 1 is a side view of a garment, as a lumberjack, and embodying my invention.

Figure 2 is a face view of a piece of a length of fabric embodying my invention.

Figure 3 is a view similar to Figure 2, but with the fabric "stretched" and in condition for attachment to another piece of fabric.

It has heretofore been common practice to provide certain portions of garments, as the necks, bottoms, and cuffs of sweaters, lumberjacks, and also other portions of other garments, with means for causing the garment to quite closely fit or "hug" the body or limb, this effect being produced in the weaving of the fabric, but in garments adapted for many uses it is desirable that the garments shall fit or hug the body or limb closer than is possible with a fabric formed by weaving and composed only of the threads or material making up the body of such fabric. Such garments have, therefore, been provided with an elastic fabric, that is, a fabric having special means for creating an elasticity therein, as by means of incorporating strips of rubber within the woven fabric, and it is the purpose of the present invention to produce as an article of manufacture a strip of elastic fabric that may be cut up into proper lengths and one edge of which shall be provided with a non-elastic portion which, however, will adapt itself to any elongation of which the elastic portion of the fabric is capable, and this, therefore, serves as a means whereby the elastic fabric may be readily attached to the edge of a garment or portion thereof with little effort.

In the accompanying drawings the numeral 5 indicates a garment, as a lumberjack, having sleeves 6, the bottom of the garment

and the wrist of the sleeves being provided with my improved elastic fabric 7.

This fabric may be produced in various ways and it comprises a body 8 that is elastic and that is intended to be stretched endwise, with a border 9 extending along one edge. The body 8 may be formed in any well known manner and embodies strips 10 of rubber disposed at intervals crosswise of the fabric. The border 9 is created with a fullness sufficient to take up substantially all of the "stretch" of which the body 8 is capable, that is, when the body 8 is stretched substantially to its fullest extent the border 9 will be straight and without fullness, as shown in Figure 3 of the drawings; but when the body is in its normal condition, as shown in Figure 2, the border 9 will be gathered and have the appearance of fullness.

In the preferred form of construction, and as embodied in the fabric shown herein, the elastic strands are incorporated with the warp, and the weft or filling threads are extended to the edge of the border 9, the warp embodied in the border being devoid of elastic strands. In thus producing the fabric the elastic strands are placed under tension during the weaving operation.

This fabric will be found of especial advantage in attaching it to another piece of fabric as embodied in a garment or otherwise, in that the elastic fabric may be stretched to its fullest extent to remove all of the gathers from the border 9 and the latter being then sewed in place a particularly neat and effective operation will be the result, and the elastic being then permitted to assume its normal condition the edge of the garment or piece of fabric will be in a condition to nicely and snugly fit the part to which it is intended to be applied.

In accordance with the provisions of the patent statutes I have described the principles of operation of my invention together with the fabric which I now consider to represent the best embodiment thereof; but I desire to have it understood that the fabric shown is only illustrative and that the invention may be carried out by other means and applied to uses other than those above set out.

I claim—

1. In an elastic garment band of the character described, a strip of woven fabric

- having spaced series of elastic elements extending lengthwise of the strip with one series of elastic elements contiguous with one edge of the strip, and the series of elastic elements adjacent the other edge of the strip being set inwardly from said edge to produce an edge ruffle on the strip when the elastic elements are contracted, the free edge of said ruffle being adapted for attachment to the garment without materially affecting the form or size of the garment.
2. In an elastic band of the character described adapted for attachment to a cuff or waist portion of a garment, a strip of woven fabric having spaced series of elastic elements extending lengthwise of the strip with one series of elastic elements contiguous with one edge of the strip, and the series of elastic elements adjacent the other edge of the strip being set inwardly from said edge to produce an edge ruffle on the strip when the elastic elements are contracted, the edge of the band having the elastic elements contiguous therewith being spaced from the garment with the ruffled edge of the band having its outer edge attached to the garment without materially affecting the form or size of the garment.

RICHARD C. FAGAN.

May 9, 1939.

J. H. CROSSINGHAM

2,157,482

KNIT UNDERGARMENT WITH ELASTIC NECK BAND

Filed Oct. 13, 1937

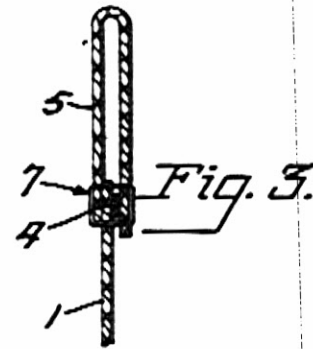
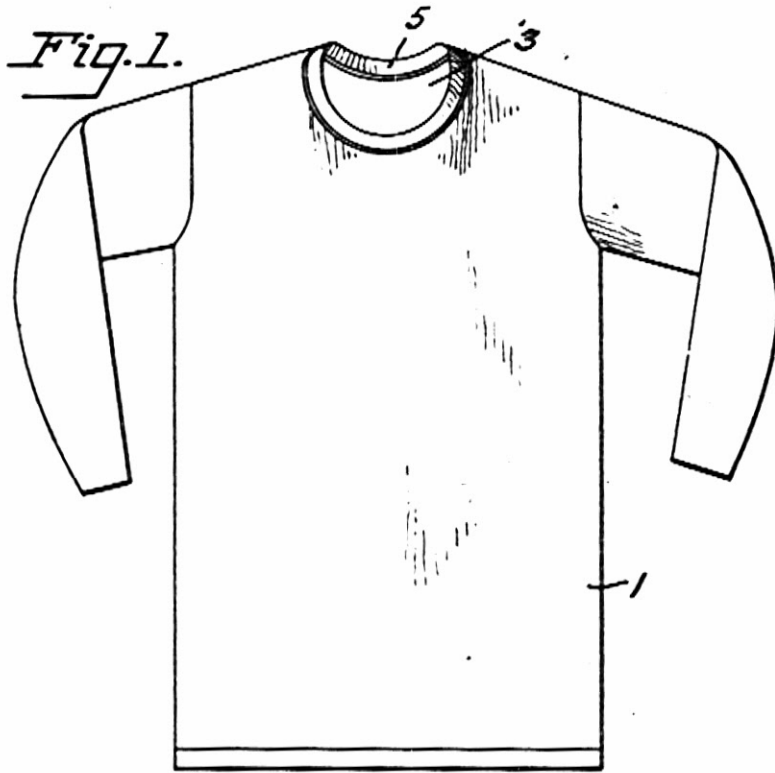
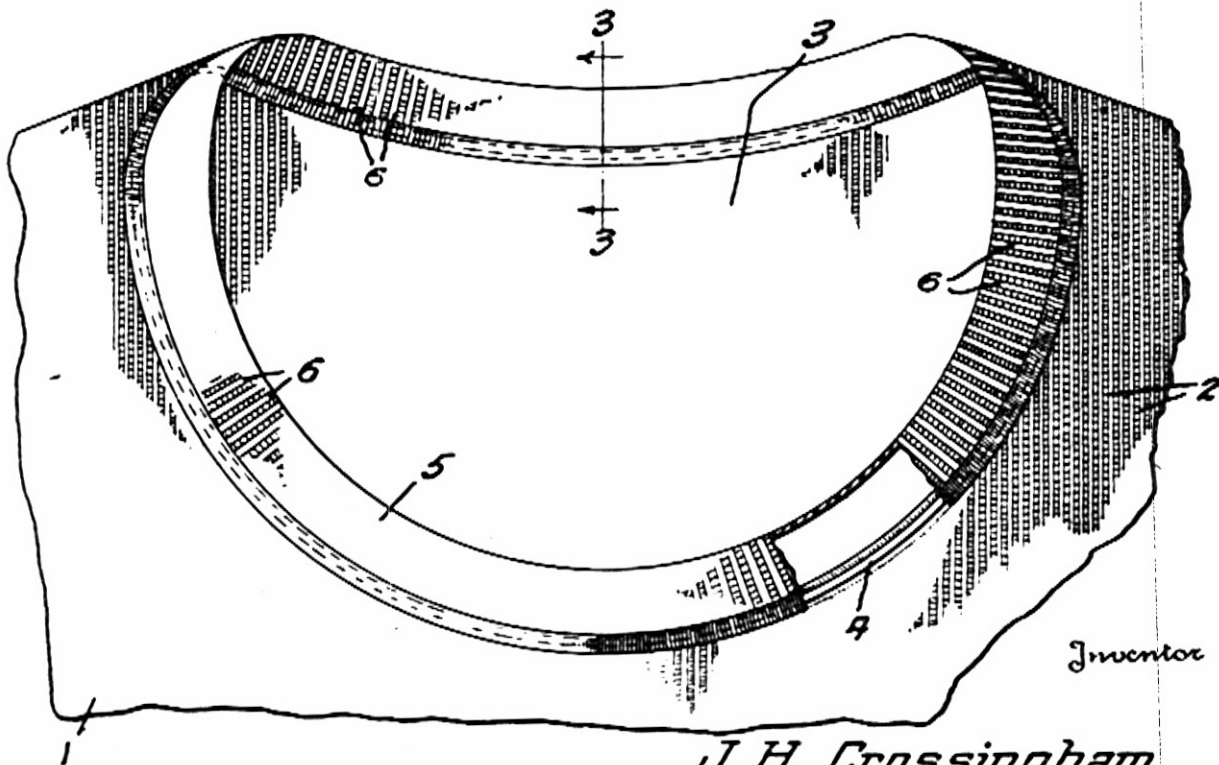


Fig. 2.



Inventor

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Attorneys

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2,157,482

KNIT UNDERGARMENT WITH ELASTIC
NECK BANDJames H. Crossingham, Mount Airy, N. C., assign-
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Application October 13, 1937, Serial No. 168,824

3 Claims. (Cl. 2-90)

This invention relates to knit undergarments especially adapted, although not exclusively intended, for children's wear. It appertains particularly to the neck construction of knit shirts.

One of the objects of the invention is to provide an endless elastic neck band which shall spread to permit the garment to be slipped over the head, avoiding the necessity for an opening down the front and the use of buttons, pins and other closures for the opening.

Another object of the invention is to incorporate into the neck of a knit garment of the class described, an endless rubber band controlling the stretch of the knit material so that while it is capable of spreading to admit the head, it returns to a position of repose, snugly encompassing the neck of the wearer.

A further object of the invention is to provide a knit collarette forming the circumferential margin of the neck hole of the shirt, extending beyond the zone of the endless rubber band, preventing rolling of the edge of the garment which would occur if the rubber elastic band were at the extreme edge of the neck opening.

Still another object of the invention is to make the collarette of knit material with the wales running perpendicular to the direction of the circumference, so as to enable the collarette to stretch to the full capacity of the rubber.

Other objects of the invention will appear as the following description of a preferred and practical embodiment thereof proceeds.

In the drawing which accompanies and forms a part of the following specification and throughout the several figures of which the same characters of reference have been employed to denote identical parts:

Figure 1 is a view in elevation illustrating a shirt having the neck portion constructed according to the principles of the present invention;

Figure 2 is a view in elevation on a somewhat enlarged scale showing the neck portion, part being broken away to disclose the interior construction; and

Figure 3 is a section taken along the line 3-3 of Figure 2.

Referring now in detail to the several figures, the numeral 1 represents the body portion of a shirt which is of knit material having the wales 2 running longitudinally of the body of the garment. It is of course a matter of common knowledge that the material is much more stretchable transversely of the wales than it is in the direction of the wales and therefore the shirt is

more elastic circumferentially of the body than it is longitudinally of the body.

On account of the flimsiness of the material of which undershirts are customarily made, manufacturers have heretofore resorted to an inelastic binding or finish for the neck opening so as to prevent the garment stretching out of shape at the neck. This of course made it impossible to slip the garment over the head and it was necessary to form an opening down the front and to close the opening with suitable devices, generally buttons. After some wear and washing the button holes usually became so stretched as no longer to retain the buttons and one is quite familiar with the annoying tendency of shirts as formerly made to hang open in the front even though they were buttoned when first put on.

The concept of the present invention contemplates the provision of a neck opening 3 bounded by an unbroken circumference, in other words devoid of any longitudinal cleft extending part or all of the way down the front of the garment. This opening 3 is of such size as to properly fit the neck of the wearer.

The problem which the present invention solves is in so constructing the neck band which bounds this opening that it will permit the opening to stretch so as to admit the head of the wearer and at the same time restore the opening to its normal repose size. This is accomplished by incorporating in the neck band an endless filament 4 of rubber. Inasmuch as ordinary sulphur-cured rubber compound deteriorates rapidly under wear and repeated laundering, it is preferred this filament of rubber shall be of pure vulcanized latex rubber which has a coefficient of elasticity superior to that of the ordinary rubber compound and which will not deteriorate through age or repeated washing.

The neck opening 3 is finished with a collarette 5 of knit material and which may be the same material as the body fabric of the shirt. In view of the fact that the collarette 5 must stretch with the rubber to the size of the head, it is made and disposed with its wales 6 extending perpendicular to the direction of the circumference so as to give the collarette the maximum stretch in a circumferential direction. The collarette is preferably a doubled piece of material between the fold of which the edges of the body material of the shirt are embraced as shown at 7 in Figure 3 and united thereto preferably by a double needle chain stitch. The rubber filament is also preferably confined between the edges of the folded

collarete and between the ends of the stitches formed by the two needles; thus the rubber filament is in effect within a narrow stretchable tubular casing and has not been penetrated by the needles.

The function of the collarete is not only to provide a neat and soft finish for the neck opening, but it serves to prevent rolling of the edge of the neck opening with respect to the hair when the shirt is put on or taken off. If the rubber were at the terminal edge it would tend to roll in stretching entraining the hair of the wearer in the tensioned fabric, pulling the hair. Since the collarete forms an extending portion of soft material of considerable width, its presence prevents the rolling of the material in the zone of the rubber.

While I have in the above described and illustrated what I believe to be a preferred and practical form of the invention, it will be understood that such variations in structure as will still embody the broad inventive concept are within the purview of my invention as defined in the appended claims.

What I claim is:

1. Knit garment having a circumferential elastic neck band characterized by the absence of an opening cleft, said neck band comprising a continuous circumferentially disposed collarete formed of folded knit material, the folds of which embrace the adjacent edge of the body material of the garment, a row of double needles elastic stitching uniting said collarete to said body material, and a continuous rubber band extending circumferentially of said neck band and confined within the zone of said stitching.

2. Knit garment having a circumferential elastic neck band characterized by the absence of an opening cleft, said neck band comprising a continuous circumferential disposed collarete of folded material knit with wales, the wales extending perpendicular to the circumference, said collarete being formed of folded material, having the folds thereof embracing the edge of the body material of the garment, said collarete and the body material of the garment being united by a circumferential row of double needle stitches forming a tubular confining zone, a continuous latex rubber band extending circumferentially of said neck band and confined within the zone of said stitching, said collarete being knit with wales and disposed with the wales extending perpendicular to the circumferential direction of said collarete.

3. Knit undergarment having a circumferential neck opening without a cleft, of such size as to stretch to pass the head of the wearer and to cause the material constituting the bounding margin of said opening to lie in an approximate flat ring against the surface of the body surrounding the base of the neck, the texture of the garment being of such flimsiness as to permanently sag upon stretching, enlarging the neck opening, means to maintain the normal repose size of said opening without impeding its capacity to stretch comprising a circumferential knit binding for said neck opening, having wales substantially normal to the circumferential line of said neck opening, and a continuous rubber filament incorporated circumferentially in said binding at a distance from the edge of said neck opening.

JAMES H. CROSSINGHAM

Aug. 29, 1939.

C. H. MARTIN

2,171,220

SWEATER

Filed July 7, 1938

Fig. 1

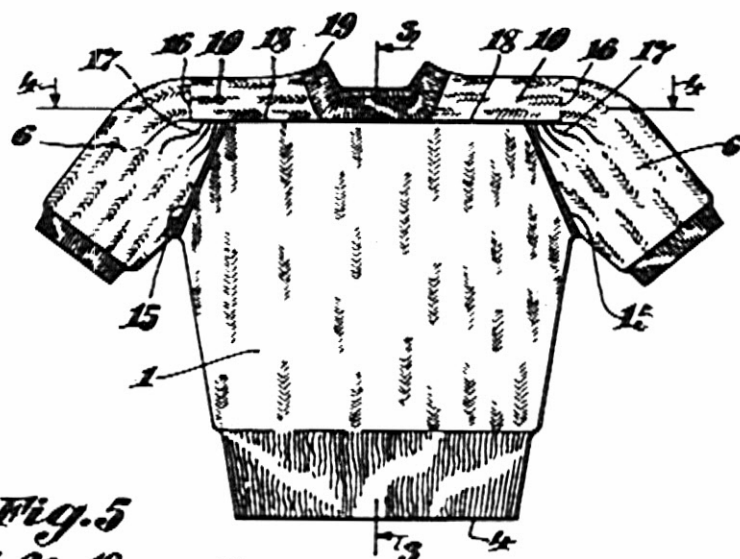


Fig. 3

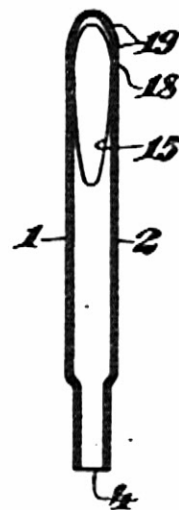


Fig. 5

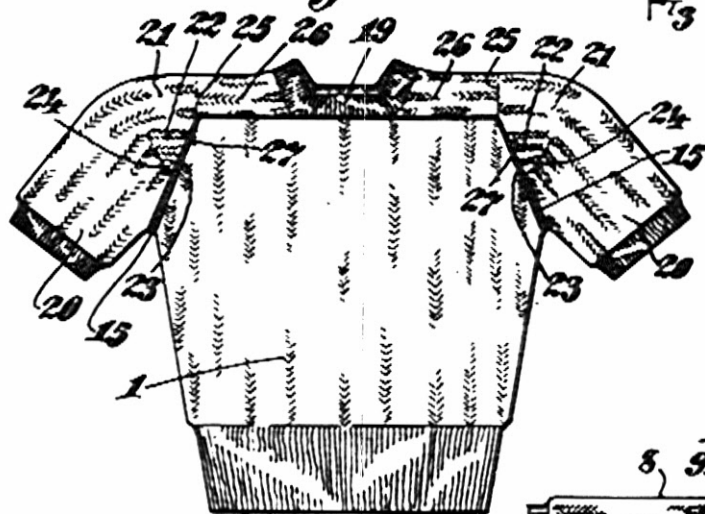


Fig. 2

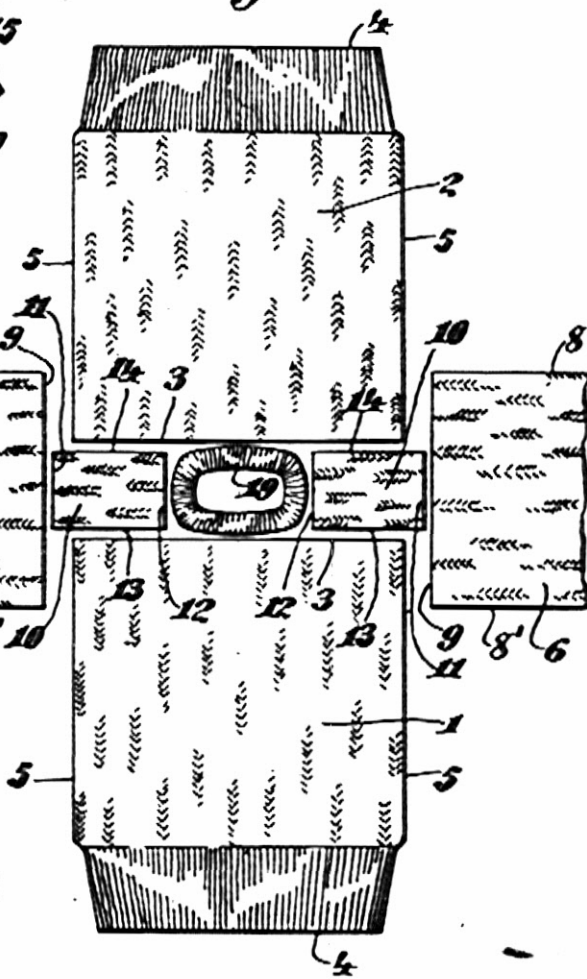


Fig. 6

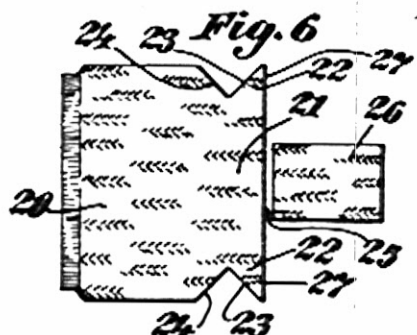
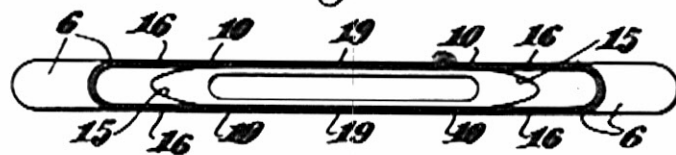


Fig. 4



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 Hoquet, Kary & Campbell,
 ATTORNEYS

UNITED STATES PATENT OFFICE

2,171,220

SWEATER

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tion of New York

Application July 7, 1938, Serial No. 217,847

7 Claims. (Cl. 2-90)

The present invention relates to wearing ap-
parel and, more particularly, to a sweater con-
struction formed in such fashion as to provide
for greater comfort, fit and style in wearing the
garment, and for a more practical and simple
manufacture thereof. More specifically, the
novel features of the present invention relate to
the shoulder construction by means of which the
shape of a knitted garment is such that it nat-
urally conforms, substantially, to the contour of
the shoulder of the wearer.

It is generally recognized that, in a knitted
garment, the shoulder portion is the portion of
the garment that presents the greatest diffi-
culty in providing a proper fit so that the com-
fort and wearing qualities of the garment may
be adequate. In previous constructions, the body
of the sweater has been formed with arm holes
or scyes to which the sleeve is secured, the sleeves
being formed and attached to the body of the
sweater in such fashion that, in the normal posi-
tion of the garment, they extend straight out
from the body. When the sweater is worn and
the arms fall naturally to the sides of the wearer,
there results a stretching in the sleeve and shoul-
der portion and across the chest which tends to
pull the neck portion of the sweater outwardly,
to stretch the sleeves, causing binding across the
shoulders and chest and bust, and otherwise to
render the garment uncomfortable, unsightly,
impair its serviceability, and cause it to wear out
sooner.

An object of the present invention, accord-
ingly, is to provide a sweater construction in
which the body and sleeves are so formed that,
in the normal position of the sweater, the sleeves
lie at the sides of the body portion thereof rather
than extending outwardly as characteristic of
other constructions.

A further object of the invention is to pro-
vide a sweater construction of the above char-
acter wherein the shoulder portions of the gar-
ment are designed and constructed so that they
fit the normal curvature of the shoulders and
arms, thus avoiding objectionable stretching and
providing a serviceable and properly fitting gar-
ment. These and other objects are attained by
forming the shoulder portions of the sweater in
such fashion that they extend outwardly beyond
the sides of the sweater and so that the sleeves
naturally depend or hang inside and beneath the
extremities of the shoulder portions of the gar-
ment in much the same way that the wearer's
arm is contoured. This may be done in several
ways and, in order that the invention may be

understood more fully, it is described herein,
in connection with two constructions which are
illustrated in the accompanying drawing,
wherein:

Figure 1 is a front view of a sweater con-
structed in accordance with the present inven-
tion;

Figure 2 is a diagrammatic illustration of the
various parts of the form and construction of
the sweater shown in Figure 1, arranged in their
relative positions but without being assembled;

Figure 3 is a view in section taken on the line
3-3 of Figure 1 and looking in the direction of
the arrows;

Figure 4 is a view in section taken on the line
4-4 of Figure 1 and looking in the direction of
the arrows;

Figure 5 is a view similar to Figure 1, showing
a modified form of sweater;

Figure 6 is a diagrammatic illustration of the
sleeve and shoulder construction of the modified
form of the invention shown in Figure 5.

Referring to the accompanying drawing, and
particularly to the construction shown in Fig-
ures 1, 2, 3 and 4, a garment such as a sweater is
illustrated as being formed of any suitable ma-
terial knitted in any well known fashion. The
garment consists of front and back panels, 1 and
2, respectively, each of which is rectangularly
formed with top edges 3, bottom edges 4, and side
edges 5. The bottom of each of the panels 1 and
2 may be formed with suitable ribbing in order
that, as illustrated in Figures 1 and 5, the bot-
tom of the sweater may be drawn closely against
the body of the wearer.

Each sleeve is similarly formed and consists
of a rectangularly shaped piece 6, the outer edge
7 of which may be also formed with ribbing so
that it will also fit the arm. The edges 8 and 8'
of the sleeve portion are substantially parallel
and terminate in an inner edge 9 which is adapt-
ed to be secured to adjacent portions of the gar-
ment, as will be presently described.

The top of the sweater is formed with shoulder
portions 10 which are of rectangular shape and
have outer edges 11, inner edges 12 and front
and back edges 13 and 14, respectively.

In assembling the sweater, the edges 8 and 8'
are secured to the adjacent side edges 5 of the
front and back panels 1 and 2, along the seams
indicated at 15 in Figure 1. The sleeve portions
6 may, as illustrated, be formed to be longer than
the seams 15 and, where the seams 15 terminate,
the opposite edges 8 of the sleeve 6 are sewed
together as will be readily understood from Figure

1. In this fashion, the sides 5 of the front and back panels 1 and 2 are united by a seam which extends from the bottom portions 4 upwardly to the point at which it merges with the seam which
5 secures the edges 8 together. From this point, at each side of the garment, the seam continues into the front and back seams 15 which unite the upper portions of the edges 8 to the adjacent portions of the edges 5 of the front and back
10 panels.

The edges 9 and 11 of the sleeve and shoulder portions, respectively, are united by a suitable seam illustrated at 16 in Figure 1, and the portions of the sleeves 6 which extend beyond
15 the edges 13 and 14 of the shoulder portions 10 are gathered or shirred and united to the edges 13 and 14 of the adjacent shoulder pieces. This is illustrated at 17 in Figure 1. The adjacent portions of the edges 13 and 14 are then united
20 with the front and back panels 1 and 2 by the seams 18, also as illustrated in Figure 1.

A collar 19 is then secured to the adjacent edges 3 of the front and back panels and 12 of the shoulder portions, thus completing the
25 garment. It will be observed that each element of the garment is of rectangular formation, thus greatly facilitating the manufacturing operation and adapting it to machine knitting. The construction of the individual elements will be seen
30 to be such that, when these rectangularly shaped elements are assembled, a shapely and well-fitting garment results. The assembled construction is such that the shoulder portions extend outwardly beyond the edges of the panels so
35 that the adjacent ends of the sleeve portions normally lie inside and beneath the extremities of the shoulder portions and thus adapt themselves to the shoulder contour of the wearer so that the garment is not stretched or distorted
40 during use.

In the construction shown in Figure 5, the shoulder and sleeve portions are formed in a modified manner. The sleeves are formed in
45 such fashion that the knitting thereof extends at least partially inwardly toward the collar. For example, the sleeve portions 20 are knitted with a shoulder portion 21 having tapered side wings 22 formed with edges 23. The sleeve portions
50 proper are formed with edges 24 which, when the garment is assembled, are secured to the edges 23, as illustrated in Figure 5. This causes the shoulder portion 21 to be drawn in, as illustrated in Figure 5, providing the necessary shoulder
55 extremity extending outwardly beyond the edges of the panels and a sleeve portion which normally lies inside and beneath the extremity. The extension 21 may terminate at an edge 25 or the knitting may continue so that the shoulder
60 pieces 26 will be formed integrally with the sleeves 20 in a continuous knitting operation. The tapered wings 22 are also formed with edges 27, of course, which, in the assembled position, are united to the adjacent front or back panel
65 by a continuation of the seam 15.

It will be observed that, in each modification, the shoulder portions 10 and 26 may be formed
70 integrally with the sleeve portions 6 and 20, respectively, and also, if desired, the front and back panels may be shaped somewhat from the rectangular formation illustrated without departing from the scope of this invention. It is
75 essential, however, that the sweater be formed with a shoulder portion which normally extends outwardly beyond the adjacent edge of the front and back or body portion of the sweater and

that the sleeve portion be so formed that the adjacent end may normally lie inside and beneath the extremity of the shoulder portion and thus extend downwardly to conform to the contour of the shoulder.

While the invention has been described with specific reference to the construction illustrated in the drawing, it is not to be limited save as defined in the appended claims.

I claim:

1. In an assembled sweater having front, back and shoulder portions, an extension on the shoulder portion which extension in the normal position of the fabric projects outwardly from said front and back portions, and a sleeve member
10 secured to said shoulder extension and having side edges secured to said front and back portions, whereby in the normal position of the fabric said sleeve member extends downwardly at an angle to the shoulder extension.

2. In an assembled sweater having front, back and shoulder portions, an extension on the shoulder portion which extension in the normal position of the fabric projects outwardly from said front and back portions, and a sleeve member
15 having a top edge secured to the outer edge of the shoulder extension and having side edges secured to said front and back portions, whereby in the normal position of the fabric, said sleeve member is positioned downwardly at an angle to said extension.

3. In an assembled sweater having front, back and shoulder portions, an extension on the shoulder portion which extension in the normal position of the fabric projects outwardly from said front and back portions, said extension having an end and side edges, and a sleeve member having a top and side edges, the midportion of the sleeve end edge being secured to the top edge of the shoulder extension, the remaining portions of the
20 sleeve top edge being secured to the side edges of the shoulder extension, and the side edges of the sleeve member being secured to the said front and back portions, whereby in the normal position of the fabric the sleeve member is positioned downwardly at an angle to the shoulder extension.

4. In an assembled sweater having front, back and shoulder portions, an extension on the shoulder portion which extension in the normal position of the fabric projects outwardly from said front and back portions, said extension having an outer edge, and a sleeve member having top and side edges, said top edge being of greater length than the outer edge of the extension, the midportion of the sleeve top edge being secured to the end portion of the extension edge, the remaining portions of the sleeve top edge being secured in a shirred fashion to the front and back portions of the shoulder extension edge, and the side edges of the sleeve member being secured to the said front and back portions of the sweater, whereby in the normal position of the fabric the sleeve member extends downwardly at an angle to the shoulder extension.

5. An assembled sweater comprising front and back panels having side edges, a shoulder panel joining said front and back panels, an extension on said shoulder panel which in the normal position of the fabric extends outwardly from the sides of the panels, a sleeve member having side edges secured to the side edges of the front and back panels, and having an end edge of which the midportion is secured to the end edge of the shoulder extension and the remaining portions
75

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of the sleeve end edge are secured to the front and back edges of the shoulder extension, whereby in the normal position of the fabric, said sleeve extends downwardly from the shoulder extension at an angle thereto.

5 6. In an assembled sweater having front, back and shoulder portions, a member formed with tapered side wings the tapered edges of which are secured to adjacent edges on the member
10 to form a shoulder extension which in the normal position of the fabric extends outwardly from the front and back portions of the sweater and to form a sleeve portion which in the normal position of the fabric extends downwardly at an angle
15 to the shoulder extension, said sleeve portion

having side edges secured to the front and back portions of the sweater.

7. An assembled sweater comprising front and back panels having side edges, a shoulder panel joining said front and back panels, an extension 5 on said shoulder panel formed with tapered side wings the tapered edges of which are secured to adjacent edges on the extension to form a shoulder portion which normally extends outwardly from the front and back panels, and to form a 10 sleeve portion which normally extends downwardly from said shoulder portion, said sleeve portion having side edges secured to the side edges of the front and back panels.

CATHERINE H. MARTIN. 15

CERTIFICATE OF CORRECTION.

Patent No. 2,171,220.

August 29, 1939.

CATHERINE H. MARTIN.

It is hereby certified that error appears in the printed specification of the above numbered patent requiring correction as follows: Page 2, second column, line 39, claim 3, for the words "end edge being secured to the top" read top edge being secured to the end; and that the said Letters Patent should be read with this correction therein that the same may conform to the record of the case in the Patent Office.

Signed and sealed this 3rd day of October, A. D. 1939.

(Seal)

Henry Van Arsdale,
Acting Commissioner of Patents.

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BRIEF FOR APPELLEE

United States Court of Appeals

DISTRICT OF COLUMBIA

APPEAL NO. 8949

ONEITA KNITTING MILLS, APPELLANT

v.

CONWAY P. COE, COMMISSIONER OF PATENTS, APPELLEE

APPEAL FROM THE JUDGMENT OF THE DISTRICT COURT OF THE
UNITED STATES FOR THE DISTRICT OF COLUMBIA

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*United States Court of Appeals
for the District of Columbia*

FILED APR - 5 1945

Joseph W. Stewart

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United States Court of Appeals

DISTRICT OF COLUMBIA

APPEAL NO. 8949

ONEITA KNITTING MILLS, APPELLANT

v.

CONWAY P. COE, COMMISSIONER OF PATENTS, APPELLEE

*APPEAL FROM THE JUDGMENT OF THE DISTRICT COURT OF THE
UNITED STATES FOR THE DISTRICT OF COLUMBIA*

BRIEF FOR THE COMMISSIONER OF PATENTS

This is an appeal from the judgment (App. 10) of the District Court dismissing the complaint (App. 2) brought by appellant to obtain the issuance of a patent on the application No. 361,445 of appellant's assignor, John T. Shea, relating to a Sweat Shirt.

THE APPLICATION

The application (App. 27) relates to a type of shirt worn by athletes in training which is known as a sweat shirt. It is customarily made of somewhat heavy material which induces and absorbs perspiration from the wearer. Appellant's shirt has three features which are emphasized in the appealed claims (App. 3-4). The first feature is the making of the under-arm portions of the sleeves from tongues integral with the body portion of the shirt, as shown at 6 in

the application drawing (App. 35). The second feature is making the sleeve extend over the shoulder and connecting it at 23 to the collar 3. The third feature is the elastic neck and bottom portions of the shirt.

The shirt is defined in claim 3 (App. 3) as follows:

3. In a sweat shirt, a neck portion made partially of lastex, a body portion made of tubular knitted fabric, tongues formed integral with said body portion by slitting the lateral edges of said body portions, whereby to cover the arm pits of the sleeve parts, shoulder pieces formed on said sleeves which are joined to the body portion and neck portion of the shirt to allow for a transverse stretch across the shoulder but not a longitudinal stretch and said body portion having a lower band made partially of lastex, whereby to prevent the body portions from sliding upwards on the wearer.

SUMMARY OF ARGUMENT

All of the features of the shirt, which are recited in the appealed claims, are found in the prior art. It was not invention to incorporate these features in one garment.

ARGUMENT

The first feature alluded to above, namely the making of the under-arm portion of the sleeve from a tongue integral with the body portion of the garment, is clearly shown in the patent to Redmond, No. 2,035,377, of March 24, 1936 (App. 47-58). This will be apparent from a consideration of Fig. 1 of the patent. The tongue 26 in the patent corresponds closely with appellant's tongue 6 (App. 35) and appellant's witness so

testified (App. 19). That the tongue 26 of Redmond is made by slitting a portion of the body is clearly shown in Figs. 7, 8, and 9 (App. 50).

Another feature which is defined in the claims only by way of a functional statement as distinguished from a statement of structure, is that the construction allows "for a transverse stretch across the shoulder but not a longitudinal stretch." This function results from the fact that the wales of the knitted fabric from which the garment is made run longitudinally of the sleeve (App. 31, and full paragraph). It will be obvious that a knitted fabric can be stretched more in a direction transverse of the wales than in a direction along the wales. Since this feature is not defined in terms of structure, it cannot impart patentability to the claims. *Koebel et al. v. Coe*, 70 App. D. C. 261, 105 F. (2d) 784; *General Electric Co. v. Wabash Appliance Corp.*, 304 U. S. 364, 371. Moreover this feature is clearly shown and described in the Redmond patent. The direction of the wales 13 is obvious from the drawing and the result in the capacity for stretching is described (App. 52, lines 45 to 50, 1st col.). This feature is also fully disclosed in the Huels patent, No. 1,288,417, of December 17, 1918 (App. 43-46). See lines 26 to 39 (App. 45) and lines 1 to 20 (App. 46) of the patent specification.

The second feature of construction emphasized by appellant is the extension of the overarm part of the sleeve, over the shoulder and up to the neck of the shirt. This is shown in the Huels patent and appellant's witness so conceded (App. 19).

The third feature is the elastic bottom and neck portions of the shirt. Elastic seaming is shown by Redmond at the bottom 14 and at the sleeve ends 31 (App. 47) and described in the specification (App. 52, lines 50 and 51, 1st col. and App. 53, beginning in line 74, 1st col.). Also in the Fagan patent, No. 1,669,868, of May 15, 1928 (R. 56-58), the cuffs and bottom are made of elastic fabric so that these portions of the garment will fit the wearer snugly. Appellant's witness testified (App. 19) that the elastic fabric used by Fagan is "lastex." This is the term used in appellant's claims. Further, the Crossingham patent No. 2,157,482, of May 9, 1939 (App. 59-61), shows the same feature applied to the neck of an undershirt.

Thus all of the claimed features of appellant's shirt are found in the prior art. Appellant appears to argue (Br. 9) that the claims should be allowed because they are not met by a single prior patent. If this were the law, the inquiry as to patentability would be reduced to a mere determination of novelty and utility and the question of invention would be ignored. That such is not the law is shown by numerous authorities as, for example, the decision of the Supreme Court in *Thompson v. Boisselier*, 114 U. S. 1, in which it was said:

So it is not enough that a thing shall be new in the sense that in the shape or form in which it is produced, it shall not have been before known, and that it shall be useful, but it must, under the Constitution and the statute, amount to an invention or discovery.

The several features of appellant's shirt are not combined in any unusual manner to bring about a new cooperation of the parts. Each part operates in the same manner as in the reference in which it is disclosed. The underarm tongue construction could be used with or without the extension of the sleeve to the neck. The elastic neck and bottom construction is quite independent of the sleeve construction. Appellant has merely brought together in one garment some features which are old in the art, without producing any new cooperative relation. This, it is submitted is not invention. *Adams et al. v. Gallion Iron Works*, 42 F. (2d) 395, C. C. A. 6; *In re Ackenbach*, 18 C. C. P. A. 769, 45 F. (2d) 437; *In re Ness*, 18 C. C. P. A. 918, 46 F. (2d) 375. In *Powers-Kennedy Contracting Corp. et al. v. Concrete Mixing and Conveying Co.*, 282 U. S. 175, the Supreme Court said that "the combination of old elements or devices accomplishing no more than the aggregate of old results" is not invention.

Appellant points out (Br. 7, 8) that the Huels and Redmond patents relate to undershirts, and argues that in sweat shirts the problem of holding shape is different. It is not apparent that such is the case. Sweat shirts in effect are merely heavy undershirts. The custom of wearing them in athletic training without a covering dress shirt does not change their character.

Although appellant has produced evidence that the shirt is commercially successful, it does not follow that it embodies an invention. Commercial success may properly be considered in determining patentability only when the question of invention is in doubt.

In re Kluter, 25 C. C. P. A. 730, 92 F. (2d) 906. It is submitted that here the lack of invention is clear.

The following statement of the Court in *Dalby v. Lynes*, 64 Fed. Rep. 376, in reference to patentability of an undershirt, appears equally applicable to the present case:

A novelty involving a state of art so universal and common as the making and adjustment of clothing must be of a radical character to overcome the presumption against its patentability. * * *

* * * * *

Every person owes something to his art, trade or other occupation which seems to be forgotten when the fancy, tickled by what is new, too frequently elevates it to the importance of invention. Applying the common knowledge and common judgment which * * * the court is entitled to apply * * * we are unable to see anything in this patent except the natural outgrowth of the development of mechanical skill, as distinguished from invention.

CONCLUSION

It is submitted that the lower court properly found as a fact (App. 10, finding 7) that it was not invention to incorporate in one garment the features of construction set forth in the claims on appeal. It is submitted that the judgment should be affirmed.

Respectfully submitted.

W. W. COCHRAN,
Solicitor, United States Patent Office.
Attorney for Appellee.

APRIL 1945.

